

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Monongahela Power Company)	
and)	Docket No. EC17-____-000
Allegheny Energy Supply Company, LLC)	

**APPLICATION FOR AUTHORIZATION PURSUANT TO SECTION 203 OF THE
FEDERAL POWER ACT AND REQUESTS FOR CONFIDENTIAL TREATMENT,
SHORTENED COMMENT PERIOD, AND LIMITED WAIVER OF
THE PART 33 FILING REQUIREMENTS**

Pursuant to Sections 203(a)(1)(A) and 203(a)(1)(D) of the Federal Power Act (“FPA”)¹ and Part 33 of the regulations of the Federal Energy Regulatory Commission (the “Commission” or “FERC”),² Monongahela Power Company (“Mon Power”) and Allegheny Energy Supply Company, LLC (“AE Supply” and, together with Mon Power, the “Applicants”) hereby request Commission authorization for the transfer (the “Transaction”) by AE Supply, and the acquisition by Mon Power, of the Pleasants Power Station, a coal-fired electric generating facility located in Willow Island, West Virginia, that is approximately 1,159 megawatts (“MWs”) of Unforced Capacity (“UCAP”), including associated interconnection facilities, materials, supplies, fuel, and books and records (“Pleasants Facility”). The Transaction facilitates Mon Power’s acquisition of economic and reliable generating capacity required to meet its projected needs as well as its full requirements service obligation to its affiliate, The Potomac Edison Company (“PE”).³

AE Supply is a market-regulated merchant generation affiliate of Mon Power. Mon Power is a vertically-integrated utility with captive customers that owns transmission,

¹ 16 U.S.C. § 824b(a)(1)(A) and (D) (2012).

² 18 C.F.R. Part 33 (2016).

³ AE Supply is also an applicant in Docket No. EC17-83-000, a pending proceeding in which Commission FPA Section 203 authorization is being sought for AE Supply to transfer its direct and indirect interests in certain other generating facilities to affiliates of LS Power Development, LLC (“LS Power”). That transaction is unrelated to the Transaction for which Commission authorization is being sought herein.

generation, and distribution facilities. As such, Mon Power's acquisition of the Pleasants Facility is an affiliate transaction that is subject to the Commission's policies and rules for such transactions. The Commission has found that "in the context of an acquisition of affiliated generation, a competitive solicitation is the most direct and reliable way to ensure no affiliate preference."⁴ The Transaction for which Commission authorization is sought herein is the result of a transparent, fair, and non-discriminatory Request for Proposals (the "RFP") issued by Mon Power on December 16, 2016, seeking to procure ownership of one or more dispatchable generation facilities amounting to approximately 1,300 MW of UCAP and up to 100 MW of demand response ("DR") resources.⁵

As discussed herein, and in the testimony that is filed herewith, Mon Power retained an independent third-party, Charles River Associates ("CRA"), to design and administer the RFP process and the solicitation of bids for available resources. In developing and administering the RFP, and evaluating bids submitted in response to the RFP, CRA took into account the Commission's *Edgar/Ameren* guidelines for evaluating transfers of jurisdictional facilities between affiliates: (i) transparency (*i.e.*, the competitive solicitation process should be open and fair); (ii) definition (*i.e.*, the product or products sought through the solicitation should be precisely defined); (iii) evaluation (*i.e.*, standardized evaluation criteria should be applied equally

⁴ *Ameren Energy Generating Co.*, Opinion No. 473, 108 FERC ¶ 61,081, at P 67 (2004) (*Ameren*).

⁵ See Press Release, FirstEnergy, Monongahela Power Company, Mon Power Issues Requests for Proposals to Secure Generation Capacity for West Virginia Service Area and Solicits Bids for Sale of its Ownership Stake in Bath County Pumped Storage Project (Dec. 16, 2016), https://www.firstenergycorp.com/newsroom/news_releases/mon-power-issues-request-for-proposals-to-secure-generation-capacity.html; see also *Mon Power Capacity Generation RFP Homepage*, <http://monpower-rfp.com/default.aspx> (last visited Feb. 24, 2017).

to all bids and bidders); and (iv) oversight (*i.e.*, an independent third-party should design the solicitation, administer bidding, and evaluate bids prior to the company's selection).⁶

Ultimately, five bids were submitted in response to the RFP. CRA determined that only three of the five bids were conforming.⁷ After reviewing the three-conforming bids submitted through the RFP, CRA provided Mon Power an Opinion Letter⁸ recommending acquisition of the Pleasants Facility to meet Mon Power's projected needs, which is attached as Exhibit RJL-2 to Attachment 3. In the Opinion Letter, CRA confirmed that the process used to solicit and evaluate proposals was executed consistent with the process as defined and envisioned by CRA and Mon Power. CRA also concluded in the Opinion Letter that "the RFP was performed in a transparent, fair and nondiscriminatory manner and no Mon Power affiliate was given an undue advantage or preference in the RFP."⁹ After taking into account CRA's recommendation, the outcome of an independent engineering analysis of the Pleasants Facility, performing its own due diligence on the Pleasants Facility and the impact on Mon Power's customers, Mon Power began the negotiation process with AE Supply and, on March 6, 2017, Mon Power and AE Supply executed the Asset Purchase Agreement ("APA"), which is attached hereto as Confidential Exhibit I.

For the reasons described herein, the Transaction will not have an adverse effect on competition, rates, or regulation, and will not result in the cross-subsidization of a non-utility

⁶ See *Ameren* at PP 70-84; *Allegheny Energy Supply Co., LLC*, 108 FERC ¶ 61,082, at PP 22-35 (2004) ("*Allegheny*").

⁷ Information regarding specific bid proposals, as well as CRA's analysis related to those proposals can be found in the "non-public" version of the CRA Opinion Letter, which is attached to the Direct Testimony of Robert J. Lee as Exh. RJL-2. Applicants are requesting confidential treatment of certain portions of the Opinion Letter. See *infra* Section VI.

⁸ There were no qualifying or non-qualifying bids for DR resources submitted in association with the RFP and, therefore, CRA made no recommendations with respect to that portion of the RFP process.

⁹ Att. 3, Direct Testimony of Robert J. Lee ("Lee Testimony"), Exh. RJL-2 at 9.

associate company or the pledge or encumbrance of utility assets for the benefit of an associate company. Accordingly, the Applicants request that the Commission find that the Transaction is consistent with the public interest pursuant to Section 203 of the FPA. Finally, the Applicants request that the Commission issue an order authorizing the Transaction no later than July 5, 2017, (*i.e.*, 120 days from the date of this Application) to permit the Transaction to close as soon as possible thereafter. Issuance of an order by that date is appropriate, because, as discussed below, the Transaction presents no competitive issues and is otherwise consistent with the public interest. To that end, Applicants request that the Commission grant a shortened comment period of 45-days.

I. DOCUMENTS SUBMITTED WITH THIS APPLICATION

Exhibits Required under 18 C.F.R. Part 33

Exhibit B	Applicants' Energy Subsidiaries and Affiliates
Exhibit C	Organizational Charts
Exhibit D	Joint Ventures, Strategic Alliances, Tolling Arrangements, and Other Business Arrangements
Exhibit E	Common Officers and Directors
Exhibit G	Jurisdictional Facilities Owned, Operated, or Controlled by Applicants or Their Affiliates
Exhibit I	Asset Purchase Agreement (Confidential)
Exhibit K	Map of Pleasants Facility
Exhibit L	Other Regulatory Approvals
Exhibit M	Cross-Subsidizations, Pledges or Encumbrances of Utility Assets
Exhibit N	Accounting Entries of Mon Power

Attachments

Attachment 1	Verifications of Applicants
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Attachment 2	Direct Testimony of Jay A. Ruberto, Director, Regulated Generation and Dispatch, for FirstEnergy Service Company
Attachment 3	Direct Testimony of Robert J. Lee, Vice-President, CRA
Attachment 4	Draft Protective Order

II. DESCRIPTION OF APPLICANTS

A. Monongahela Power Company

Mon Power, an Ohio corporation, is a direct, wholly-owned subsidiary of FirstEnergy Corp. (“FirstEnergy”). Mon Power owns property and does business as an electric public utility in West Virginia, providing generation, transmission and distribution services in 13,000 square miles of northern West Virginia, covering an area with a population of approximately 800,000. Mon Power’s rates for transmission service are provided in Attachments H-11 and H-11A of the PJM Interconnection, L.L.C. (“PJM”) Open Access Transmission Tariff (“PJM Tariff”).¹⁰ Mon Power is also authorized by the Commission to make wholesale sales of electric energy, capacity, and ancillary services at market-based rates.¹¹

Mon Power’s electric portfolio consists of 3,700 MW of generation capacity, including approximately 150 MW of non-utility generator (“NUG”) resources, over 2,000 circuit miles of transmission lines at voltages ranging from 69 kV to 500 kV, and more than 25,464 circuit miles

¹⁰ See *PJM Interconnection, L.L.C.*, 98 FERC ¶ 61,072, *clarified*, 98 FERC ¶ 61,235 (2002); *PJM Interconnection, L.L.C.*, 100 FERC ¶ 61,088 (2002); see also PJM Tariff, Attachments H-11, H-11A.

¹¹ *Monongahela Power Co.*, Docket No. ER12-284-000 (Dec. 28, 2011) (unpublished letter order). Mon Power and its affiliates, PE and West Penn Power Company (referred to herein as the “Allegheny Power Operating Companies”) are subject to certain waivers of FERC’s affiliate rules. The Allegheny Power Operating Companies may make hourly non-firm energy sales to one another at the PJM index price for the Allegheny Power transmission zone of PJM. See *Allegheny Power Serv. Corp.*, 90 FERC ¶ 61,002 (2000). The Commission has also granted a waiver of affiliate restrictions in Section 35.39(c)(2)(i) of the Commission’s regulations, 18 C.F.R. § 35.39(c)(2)(i), in order to permit FirstEnergy Solutions Corp. (“FES”) and its affiliates to share employees that engage in fuel procurement for generators owned by FES and its affiliates, including the Allegheny Power Operating Companies, and to permit the sharing of employees that engage in outage scheduling and economic dispatch at generating facilities that are jointly owned by Mon Power and AE Supply. *FirstEnergy Corp.*, 136 FERC ¶ 61,216 (2011). Mon Power will make appropriate filings with the Commission in the respective dockets related to its market-based authorization and the waivers of FERC’s affiliate restrictions as required to reflect the impact, if any, of the Transaction on said authorization or on said waivers.

of distribution lines at voltages ranging from 2.4 kV to 34.5 kV in West Virginia. Mon Power owns a mix of generating resources consisting of fossil-fuel plants and hydroelectric pumped storage. Additionally, Mon Power purchases capacity and energy from PJM.

Mon Power also provides all of the generation supply in the West Virginia service territory of its affiliate, PE, which provides electric service to approximately 140,000 customers. As such, Mon Power is a franchised public utility with captive customers.

B. AE Supply

AE Supply, a direct, wholly-owned subsidiary of FirstEnergy, is a market-regulated utility that, on its own behalf and through its subsidiaries, develops, owns, and operates electric generating facilities and markets power in competitive wholesale and retail markets. AE Supply buys and sells electric energy, capacity, and ancillary services in wholesale markets. AE Supply is not a franchised public utility with captive customers. AE Supply does not own or control any transmission or distribution facilities other than those facilities necessary to interconnect its generation to the grid. The Commission has authorized AE Supply to make wholesale sales of electric energy, capacity, and certain ancillary services at market-based rates.¹²

¹² See *Allegheny Energy Supply Co.*, 88 FERC ¶ 61,303 (1999); *Allegheny Energy Supply Co., LLC*, Docket No. ER12-273-001 (May 22, 2012) (unpublished letter order). AE Supply is subject to certain waivers related to its market-based rate authorization and of FERC's affiliate restrictions. AE Supply has been granted the following waivers or exemptions in connection with its market-based rate authority: (i) waiver of Subparts B and C of Part 35 of the Commission's regulations regarding the filing of rate schedules, except Sections 35.12(a), 35.13(b), 35.15 and 35.16; (ii) waiver of the accounting and related reporting requirements under Parts 41, 101 and 141 of the Commission's regulations; (iii) abbreviated filings with respect to interlocking directorates under Parts 45 and 46 of the Commission's regulations; and (iv) blanket authorization under Section 204 of the FPA, 16 U.S.C. § 824c, and Part 34 of the Commission's regulations to issue securities and assume obligations and liability. See *Allegheny Energy Supply Co.*, 88 FERC ¶ 61,303 (1999). AE Supply also may sell available electric energy and/or capacity to certain affiliates under the terms of a rate schedule approved by the Commission, subject to certain conditions. See *Allegheny Energy Supply Co., L.L.C.*, 91 FERC ¶ 61,255 (2000), *reh'g granted*, 96 FERC ¶ 61,002 (2001). AE Supply will make appropriate filings with the Commission in the respective dockets related to its market-based authorization and the waivers of FERC's affiliate restrictions as required to reflect the impact, if any, of the Transaction on those authorizations or waivers.

III. BACKGROUND OF THE TRANSACTION

A. Mon Power's Need for Additional Energy and Capacity

In 2015, Mon Power established a process for undertaking a review of its and PE's capacity and energy needs.¹³ Pursuant to West Virginia law,¹⁴ Mon Power formalized that process in a 2015 Integrated Resource Plan ("IRP"), which it filed with the West Virginia Public Service Commission ("WVPSC") on December 30, 2015.¹⁵ The IRP compared Mon Power's and PE's projected peak demand with Mon Power's current and planned capacity resources. As Mon Power explained in the IRP:

Objective. Mon Power's objective in developing the [IRP] was to identify the resources necessary to meet [Mon Power's and PE's] future energy and capacity obligations in a cost effective, prudent, and reliable manner. Mon Power's options for meeting these future needs consist of supply-side and demand-side resources and market purchases.^[16]

As described in detail in the testimony of Jay A. Ruberto (the "Ruberto Testimony"), attached hereto as Attachment 2,¹⁷ the IRP concluded that Mon Power would have a capacity shortfall beginning in the winter peaking period of 2016 that was projected to exceed 700 MW by 2020 and 850 MW by 2027.¹⁸ The WVPSC accepted Mon Power's IRP on June 3, 2016.¹⁹

¹³ As noted above, Mon Power provides all of the generation supply in the West Virginia service territory of its affiliate, PE.

¹⁴ W.VA. CODE § 24-2-19(a) (2016); Integrated Resource Planning, General Order No. 184.35 (W.V. P.S.C. Mar. 19, 2015).

¹⁵ Mon Power & PE, 2015 Integrated Resource Plan, Case No. 15-2002-E-IRP (filed Dec. 30, 2015), <http://www.psc.state.wv.us/scripts/WebDocket/ViewDocument.cfm?CaseActivityID=441858&NotType=%27WebDocket%27>.

¹⁶ *Id.* at 4.

¹⁷ Applicants are requesting confidential treatment of certain portions of Mr. Ruberto's Testimony. *See infra*, Section VI.

¹⁸ Att. 2, Direct Testimony of Jay A. Ruberto at 5-6 ("Ruberto Testimony"). Mon Power has historically registered its peak load during the winter peaking period.

¹⁹ *Monongahela Power Company and The Potomac Edison Company, Integrated Resource Plan*, Case No. 15-2002-E-IRP (W. Va. P.S.C. June 3, 2016).

As Mr. Ruberto further explains, subsequent to the issuance of the IRP and prior to the issuance of the RFP, Mon Power continued to evaluate its generation portfolio based on recent rule changes in the PJM markets, particularly the recently-implemented PJM “Capacity Performance” (“CP”) market design.²⁰ Under the CP market design, generation resources with a capacity obligation that fail to perform when needed to maintain reliability during peak demand periods are subject to significant penalties. Mon Power determined that the CP market design would have a significant adverse impact on the value of Mon Power’s indirect interest in the Bath County Pumped Storage Project (the “Bath County Project”) located in Warm Springs, Virginia, which represents 487 MW of capacity.²¹ Mon Power concluded that this capacity value would be reduced by approximately 50% beginning in the 2020-2021 PJM Delivery Year due to certain availability requirements imposed on CP resources related to system emergencies.²² As a result, Mon Power decided to consider a sale of its interest in the Bath County Project.²³ After taking into account the potential sale of its interest in the Bath County Project as well as higher load projections based on increased economic development in West Virginia, Mon Power updated its load and capacity forecast from the IRP and revised its projected capacity shortfall to approximately 1,005 MW by 2020 and 1,439 MW by 2027.²⁴

²⁰ See Ruberto Testimony at 6-7; *see also* *PJM Interconnection, L.L.C.*, 151 FERC ¶ 61,208 (2015), *order on reh’g*, 155 FERC ¶ 61,157 (2016), *appeal pending*, D.C. Cir. Case Nos. 16-1234, *et al.*

²¹ Ruberto Testimony at 6-7.

²² *Id.*

²³ Mon Power initiated an RFP process to solicit bids to purchase its undivided ownership interest in the Bath County Project, which ran concurrently with the RFP process that resulted in the Transaction in this proceeding. Mon Power will file applications for all necessary regulatory approvals from the Commission if, at the conclusion of the Bath County Project RFP process, Mon Power determines to pursue a sale of its indirect interest in the Bath County Project.

²⁴ Ruberto Testimony at 7-8. Both the load and capacity forecasts are required to be updated every five-years, and Mr. Ruberto’s testimony contains the latest forecast for the West Virginia territory.

B. The Design and Implementation of the RFP

In order to meet its projected capacity and energy needs, Mon Power determined that it would pursue the acquisition of capacity resources, rather than pursue a power purchase arrangement, based on the conclusion in the IRP that “[t]he lowest [cost] evaluated option to address Mon Power’s needs appears to be the purchase of existing generating facilities.”²⁵ As Mr. Ruberto explains, this option would require an agreement between Mon Power and any seller at a price that allows this option to remain the best solution.²⁶

In his testimony, Mr. Ruberto describes that, in the fourth quarter of 2016, Mon Power retained an independent third-party, CRA, to design and administer an RFP process to solicit bids for available resources.²⁷ CRA is an economics and management consulting firm with extensive experience in designing, managing and executing procurement processes through RFPs. Prior to issuing the RFP on December 16, 2016, CRA worked with Mon Power to define the process objectives and requirements for obtaining the needed capacity resources. In order to manage its capacity needs and ensure an adequate level of generation supply for its customers, Mon Power issued the RFP on December 16, 2016, seeking to acquire: (i) one or more generating facilities (existing, new or sufficiently in-development) amounting to approximately 1,300 MW of UCAP, and (ii) up to 100 MW of DR resources, in each case located within the Allegheny Power Systems (“APS”) zone of PJM.²⁸

As explained in the testimony of Mr. Robert J. Lee (the “Lee Testimony”) attached hereto as Attachment 3, in connection with the issuance of the RFP, CRA managed the outreach to

²⁵ IRP at 57. *See also* Ruberto Testimony at 8.

²⁶ Ruberto Testimony at 8.

²⁷ Ruberto Testimony at 12; Lee Testimony at 3-5.

²⁸ Ruberto Testimony at 12; Lee Testimony at 3.

potential bidders, and identified twenty existing generating assets and eight in-development generating projects located within PJM's APS zone that would meet Mon Power's stated needs. CRA contacted representatives from each of these facilities as well as six DR providers to inform them of the RFP and relevant due dates.²⁹ CRA also maintained a public information website that included all key documents related to the RFP process.³⁰ Through that website, interested parties were able to submit questions and comments related to the process, the relevant RFP-related documents, or the RFP requirements. FirstEnergy also published a press release related to this RFP on its website.³¹ All interested parties, including affiliates of Mon Power, were allowed to submit proposals in the RFP.

Given the potential participation in the RFP by affiliates of Mon Power, and consistent with Commission precedent,³² CRA took into account the Commission's *Edgar/Ameren* guidelines when designing and administering the RFP, and evaluating the conforming bids submitted through the RFP.³³ Those guidelines are as follows:

- **Transparency**: the competitive solicitation process should be open and fair;
- **Definition**: the product or products sought through the solicitation should be precisely defined;
- **Evaluation**: standardized evaluation criteria should be applied equally to all bids and bidders; and

²⁹ Lee Testimony at 4-5.

³⁰ *Id.*; *Mon Power Capacity Generation RFP Homepage*, <http://monpower-rfp.com/default.aspx> (last visited Feb. 24, 2017).

³¹ Press Release, FirstEnergy, Monongahela Power Company, Mon Power Issues Requests for Proposals to Secure Generation Capacity for West Virginia Service Area and Solicits Bids for Sale of its Ownership Stake in Bath County Pumped Storage Project (Dec. 16, 2016), https://www.firstenergycorp.com/newsroom/news_releases/mon-power-issues-request-for-proposals-to-secure-generation-capacity.html.

³² *See supra* note 6.

³³ Lee Testimony at 5-11.

- **Oversight**: an independent third-party should design the solicitation, administer bidding, and evaluate bids prior to the company's selection.

Mr. Lee's testimony describes that after the February 3, 2017, deadline for the submission of proposals had passed, CRA: (i) reviewed all the proposals received and screened the responses to ensure they conformed with all the relevant RFP requirements; (ii) conducted follow-up conference calls with representatives of each company submitting a conforming proposal to discuss issues with the information provided; (iii) evaluated all conforming proposals according to the pre-specified criteria identified in the RFP; and (iv) managed bidder communication and outreach.³⁴ Mon Power was not directly involved in the evaluation of proposals nor was Mon Power aware of the identity of the bidders as part of the RFP's Q&A process on the CRA-administered information website. During the evaluation process, Mon Power "was only made generally aware of the progress and/or any issues encountered [by CRA] during the review."³⁵

On February 27, 2017, CRA provided Mon Power an Opinion Letter recommending the acquisition of the Pleasants Facility as the winning bidder. In the Opinion Letter, CRA confirmed that the process used to solicit and evaluate proposals was executed consistent with the process as defined and envisioned by CRA and Mon Power, and as provided in the RFP. CRA also concluded in the Opinion Letter that "the RFP was performed in a transparent, fair and nondiscriminatory manner and no Mon Power affiliate was given an undue advantage or preference in the RFP."³⁶ As explained by CRA in the Opinion Letter, and as described in the testimony of Mr. Lee, the RFP met the four overarching solicitation guidelines established by the Commission when evaluating asset transfers between affiliates.

³⁴ *Id.* at 4-5.

³⁵ Opinion Letter at 2.

³⁶ *Id.*; Lee Testimony at 6.

The transparency principle requires that the RFP process be open and fair to all potential parties, and not provide any undue advantage to an affiliate. More specifically, the Commission has stated that “[t]ransparency is the free flow of information to all parties. No party, particularly the affiliate, should have an informational advantage in any part of the solicitation.”³⁷ CRA ensured that the RFP was consistent with the transparency principle in several ways. First, all parties had equal access to information regarding the RFP via the dedicated RFP information website that was developed and maintained by CRA.³⁸ The RFP information website included the RFP document and all related forms.³⁹ Potential bidders were directed to submit questions requesting additional information and/or clarification through the RFP website.⁴⁰ CRA scrubbed questions of any identifying information about the requesting party, and answers were only posted to the website if the identity of the questioner could be protected. Second, barriers to entry for potential bidders in responding to the RFP were low. All potential bidders were required to submit standardized pre-qualification documents to determine their fitness to participate in the process.⁴¹ Ultimately, CRA approved all parties that submitted pre-qualification documents to submit a proposal. Third, the pre-qualification requirements, including credit requirements, were minimal and non-discriminatory. The pre-qualification requirements and certifications applied to all potential bidders, and were focused on ensuring that potential bidders owned the generation facility they intended to offer, and to establish credit and financial information.⁴² Finally, CRA, as the RFP Manager, determined which bidders satisfied

³⁷ *Ameren* at P 72.

³⁸ RFP at 6; Lee Testimony at 8; Opinion Letter at 5.

³⁹ RFP at 6; Lee Testimony at 8; Opinion Letter at 5.

⁴⁰ RFP at 6-7; Lee Testimony at 8; Opinion Letter at 5-6.

⁴¹ RFP at 9; Lee Testimony at 8; Opinion Letter at 6.

⁴² Opinion Letter at 6.

the pre-qualification requirements, evaluated the economics of each proposal using a consistent set of assumptions and determined the winning proposal in accordance with the process described in Section 4.2 of the RFP.⁴³

The definition principle requires that any product or products sought through a competitive solicitation process should be precisely defined in a manner that is clear and nondiscriminatory and should state all relevant aspects of the products sought.⁴⁴ This includes information such as the specifications of the desired capacity, fuel type, plant technology, and transmission requirements. With respect to this principle, CRA ensured that bidders had full knowledge of the desired products. Specifically, the RFP clearly stated that Mon Power was seeking up to 1,300 MW of dispatchable generation from a generation facility or generation facilities.⁴⁵ The RFP also stated that both existing and new/planned generation facilities were eligible to participate in the RFP process.⁴⁶ Mon Power defined a preference that proposals for generation facilities be located in the APS zone in the PJM region.⁴⁷ Bidders had the ability to ask clarifying questions if needed through the Q&A process on the RFP information website.⁴⁸

To satisfy the evaluation principle, “RFPs should clearly specify the price and non-price criteria under which the bids are evaluated,”⁴⁹ and the price and non-price criteria must be equally applied to all bids. With respect to this principle, CRA found that: (i) interested parties were pre-qualified as bidders before they could submit proposals; (ii) the pre-qualification criteria were established in advance of the issuance of the RFP and those standards were made

⁴³ *Id.* at 3-4; Lee Testimony at 10.

⁴⁴ *Ameren* at P 76 (explaining that these aspects should include capacity and term, fuel type, plant technology, and transmission requirements).

⁴⁵ RFP at 4, 10; Lee Testimony at 9; Opinion Letter at 7.

⁴⁶ RFP at 4, 12.

⁴⁷ *Id.* at 12.

⁴⁸ Lee Testimony at 8; Opinion Letter at 3.

⁴⁹ *Ameren* at P 78; *Allegheny* at P 29.

available to all interested parties via the CRA-administered information website; (iii) the evaluation criteria were included in the RFP and were made available to all interested parties on the information website; (iv) the actual evaluation of proposals received was performed consistent with the standards and process defined in advance of issuing the RFP; (v) there were no instances or issues that required CRA to deviate from the pre-defined evaluation criteria and bidder confidentiality was maintained at all times throughout the evaluation process;⁵⁰ and (vi) proposals were evaluated by CRA through the use of an Excel-based tool, the design of which was intended to facilitate an objective evaluation framework that could be applied equally across all proposals received, consistent with the identified evaluation criteria.⁵¹ Ultimately, CRA received three-conforming bids from pre-qualified bidders.

With respect to the oversight principle, the Commission has held that “[e]ffective oversight of competitive solicitations can be accomplished by using an independent third party in the design, administration, and evaluation stages of the competitive solicitation process.”⁵² The entire RFP process was overseen by CRA, including design of the RFP, communication with all interested parties, bidding activities, and the evaluation of the proposals.⁵³ CRA is not affiliated with Mon Power or any of its affiliates, and does not have any financial interest in any of the potential bidders or the outcome of the RFP.⁵⁴ CRA does not own any facilities participating in PJM and cannot indirectly benefit from the transaction or the operation of the Pleasants Facility participating in PJM. CRA ensured that the RFP process was executed consistent with all pre-

⁵⁰ Two bidders submitted non-conforming bids for long-term Power Purchase Agreements, and both were disqualified.

⁵¹ Lee Testimony at 10; Opinion Letter at 8.

⁵² *Ameren* at P 81; *Allegheny* at P 32.

⁵³ Lee Testimony at 2-11.

⁵⁴ *Ameren* at P 82 (“A minimum criterion for independence is that the third party has no financial interest in any of the potential bidders, including the affiliate, or in the outcome or process.”); *Allegheny* at P 33.

determined evaluation criteria and it thoroughly reviewed all proposals before presenting the results to Mon Power. CRA managed the entire RFP process consistent with the Commission's standards of independence. CRA's decision-making process was independent of Mon Power and all bidders.

C. The Transaction

After taking into account CRA's recommendation, the outcome of an independent engineering analysis of the Pleasants Facility, performing its own due diligence on the Pleasants Facility and the impact on Mon Power's customers, Mon Power informed AE Supply on February 28, 2017, that it had been selected as the winning bidder. Mon Power began the negotiation process with AE Supply to purchase Pleasants and, on March 6, 2017, Mon Power and AE Supply executed the APA, which is attached hereto as Confidential Exhibit I.

Mon Power has various options for financing the Transaction. Potential financing options include the use of a combination of long-term debt, equity from Mon Power's parent, FirstEnergy Corp., or directly from Mon Power's cash sources and/or short-term debt. At the effective date of the Transaction, Mon Power could also potentially assume a \$142 million pollution control note secured by certain Pleasants assets.

Mon Power will, if necessary, file a separate application under Section 204 of the FPA for the necessary financing authority.

IV. REQUEST FOR AUTHORIZATION UNDER FPA SECTION 203

A. The Transaction Is Consistent With the Public Interest

Section 203(a)(4) of the FPA provides that the Commission "shall approve [a] proposed disposition, consolidation, acquisition, or change in control, if it finds that the proposed transaction will be consistent with the public interest, and will not result in cross-subsidization of a non-utility associate company or the pledge or encumbrance of utility assets for the benefit of

an associate company.”⁵⁵ In determining whether a proposed transaction is in the public interest, the Commission considers whether it will have an adverse effect on competition, rates, or regulation.⁵⁶ In addition, an application must include an explanation with evidentiary support of “how applicants are providing assurance, *based on facts and circumstances known to them or that are reasonably foreseeable*, that the proposed transaction will not result in, *at the time of the transaction or in the future*, cross-subsidization of a non-utility associate company” or, if such assurance cannot be provided, “an explanation of how such cross-subsidization, pledge, or encumbrance will be consistent with the public interest.”⁵⁷ As described below, the Transaction satisfies the requirements of FPA Section 203 and the Commission’s implementing regulations. Accordingly, the Commission therefore should approve the Transaction.

1. The Transaction Will Have No Adverse Effect on Competition

Part 33 of the Commission’s regulations provides that a Section 203 applicant must file a horizontal competitive analysis screen “if, as a result of the proposed transaction, a single corporate entity obtains ownership or control over the generating facilities of previously unaffiliated merging entities”⁵⁸ In addition, a vertical competitive analysis is required “if, as a result of the proposed transaction, a single corporate entity has ownership or control over one or more merging entities that provides inputs to electricity products and one or more merging entities that provides electric generation products”⁵⁹

As described above, the Transaction involves the transfer of the Pleasants Facility from

⁵⁵ 16 U.S.C. § 824b(a)(4).

⁵⁶ *Inquiry Concerning the Commission’s Merger Policy Under the Federal Power Act: Policy Statement*, Order No. 592, FERC Stats. & Regs. ¶ 31,044, at 30,111-12 (1996) (“*Merger Policy Statement*”), *reconsideration denied*, Order No. 592-A, 79 FERC ¶ 61,321 (1997).

⁵⁷ 18 C.F.R. § 33.2(j)(1)-(2) (emphasis in original).

⁵⁸ *Id.* § 33.3(a)(1).

⁵⁹ *Id.* § 33.4(a)(1).

AE Supply to Mon Power, each of which is a direct, wholly-owned subsidiary of FirstEnergy. The Commission has held that “[i]t has . . . been our experience that anticompetitive effects are unlikely to arise with regard to internal corporate reorganizations. . . .”⁶⁰ Mon Power is already deemed to be affiliated with the Pleasants Facility for purposes of demonstrating that Mon Power does not have the ability to exercise horizontal market power.⁶¹ Because the Transaction does not result in “a single corporate entity obtain[ing] ownership or control over the generating facilities of previously unaffiliated merging entities,” the Transaction does not raise any horizontal market power concerns.

In addition, the Transaction does not involve the transfer of transmission facilities, other than those limited facilities needed to interconnect the Pleasants Facility to the grid, or any inputs to electricity production. Moreover, Mon Power has turned over operational control of its transmission facilities to PJM, and wholesale transmission service over such facilities will continue to be provided pursuant to the rates and terms of the PJM Tariff on file with the Commission.⁶² As a result, the Transaction raises no vertical market power concerns.

2. The Transaction Will Have No Adverse Effect on Rates

When considering the impacts of a proposed transaction on rates, the Commission looks primarily at impacts on transmission rates and on rates for captive wholesale requirements customers.⁶³ As described below, the Transaction will not raise the possibility of any rate

⁶⁰ *Transactions Subject to FPA Section 203*, Order No. 669, FERC Stats. & Regs. ¶ 31,200, at P 190 (2005) (“Order No. 669”), *on reh’g*, Order No. 669-A, FERC Stats. & Regs. ¶ 31,214, *on reh’g*, Order No. 669-B, FERC Stats. & Regs. ¶ 31,225 (2006).

⁶¹ Mon Power, *et al.*, Triennial Market Power Update Analysis, Docket No. ER10-2687-004, *et al.*, at 4-5 (filed Dec. 23, 2016).

⁶² See *EDG Dev., Inc.*, 126 FERC ¶ 61,141, at P 23 (2009) (“Turning over operational control of transmission facilities to an independent entity mitigates any concerns about transmission-related vertical market power because it eliminates a company’s ability to use its transmission system to harm competition.”).

⁶³ *Merger Policy Statement* at 30,123.

increases for existing transmission customers or any adverse impacts on cost-based wholesale power sales customers.

The Transaction will have no adverse effect on Mon Power's transmission rates. Mon Power has turned over functional control of its transmission assets to PJM, and no jurisdictional transmission rates will change as the result of the Transaction. Mon Power's rates for transmission service under Attachments H-11 and H-11A of the PJM Tariff will not be impacted by the Transaction. Moreover, the Transaction does not include transmission assets other than those assets necessary to interconnect the Pleasants Facility to the PJM transmission system. The costs of those interconnection assets are reflected in the purchase price and will not be passed through Mon Power's stated transmission rate in Attachments H-11 and H-11A. AE Supply provides no FERC-jurisdictional transmission services.

The Transaction will also have no adverse effect on the rates for wholesale power sales. Each Applicant makes wholesale power sales pursuant to its respective Commission-accepted market-based rate tariff, and will continue to do so after the Transaction. The Commission has concluded that such market-based rate sales do not raise any concerns about a transaction's possible adverse effects on rates.⁶⁴

AE Supply currently provides reactive power and voltage control ("Reactive Service") from the Pleasants Facility pursuant to Schedule 2 of the PJM Tariff and a revenue requirement reflected in its Rate Schedule No. 2.⁶⁵ Mon Power also provides Reactive Service from its fleet

⁶⁴ *Cinergy Corp.*, 140 FERC ¶ 61,180, at P 41 (2012) ("The Commission has previously stated that, when there are market-based rates, the effect on rates is not of concern.") (citing *Duquesne Light Holdings, Inc.*, 117 FERC ¶ 61,326, at P 25 (2006)).

⁶⁵ *Allegheny Energy Supply Co., LLC*, Docket No. ER14-1883-001 (July 16, 2014) (unpublished letter order); *Allegheny Energy Supply Co., LLC*, Compliance Filing, Docket No. ER14-1883-001 (filed June 18, 2014).

of generating facilities pursuant to its Rate Schedule No. 3.⁶⁶ These rates will not change in the absence of Commission approval under Section 205 of the FPA. Consistent with Schedule 2 to the PJM Tariff, Mon Power and AE Supply will file applications under Section 205 of the FPA to update their Reactive Service revenue requirements pursuant to Rate Schedule No. 3 and Rate Schedule No. 2, respectively, to reflect the change in the Pleasants Facility's ownership.⁶⁷

Mon Power also makes wholesale power sales to its affiliates West Penn and PE pursuant to its FERC Electric Tariff No. 1.⁶⁸ Sales under Mon Power's FERC Electric Tariff No. 1 occur at a stated rate, with automatic adjustments for taxes and fuel. Mon Power's stated rate under this tariff will not change in the absence of Commission approval under Section 205 of the FPA. Fuel costs are affected by many factors, including Mon Power's resource mix, and may be higher or lower as a result of the Transaction.

Mon Power also provides capacity, energy, and ancillary services to PE pursuant to a Facilities Lease and Assignment Agreement ("FLA")⁶⁹ and a Full Requirements Power Purchase Agreement ("PPA").⁷⁰ Under both agreements, Mon Power charges a rate that is based on PE's load ratio share of the total cost of serving the combined Mon Power and PE load in West Virginia. Because the rates in the FLA and PPA are calculated based on the formulaic processes

⁶⁶ *Monongahela Power Co.*, Docket No. ER14-1882-001 (July 16, 2014) (unpublished letter order); *Monongahela Power Co.*, Compliance Filing, Docket No. ER14-1882-001 (filed June 18, 2014).

⁶⁷ In connection with the transaction pending in Docket No. EC17-83-000, AE Supply intends to submit a Section 205 filing to reduce its Reactive Service revenue requirement in its Rate Schedule No. 2 to reflect the transfer of certain generating facilities to affiliates of LS Power.

⁶⁸ *Monongahela Power Co.*, Docket No. ER10-2725-000 (Oct. 15, 2010) (unpublished letter order); *Monongahela Power Co.*, First Revised Volume No. 1, Docket No. ER10-2725-000 (filed Sept. 17, 2010).

⁶⁹ *Monongahela Power Co.*, Docket Nos. ER07-321-000, *et al.* (Jan. 30, 2007) (unpublished letter order); *Monongahela Power Co.*, First Revised Rate Schedule No. 59, Docket Nos. ER07-321-000 (filed Jan. 10, 2009). The Commission has conditionally accepted a revised version of Exhibit A to the FLA. *Monongahela Power Co.*, Docket Nos. ER12-2591-000, *et al.* (Oct. 5, 2012) (unpublished letter order).

⁷⁰ *Monongahela Power Co.*, Docket Nos. ER07-321-000, *et al.* (Jan. 30, 2007) (unpublished letter order); *Monongahela Power Co.*, First Revised Rate Schedule No. 60, Docket Nos. ER07-321-000 (filed Jan. 10, 2009).

described in those FERC-approved agreements, the Transaction may result in changes to the rates. The Applicants estimate that the Transaction will initially result in a decrease to PE's annual costs under the PPA and the FLA of approximately \$7.5 million, or about 4%.

The Commission differentiates between an effect on rates and adverse effect on rates, and in the absence of a showing of an adverse effect has approved asset transfers similar to the Transaction that is the subject of this proceeding.⁷¹ Accordingly, and consistent with its established precedents, the Commission should find that the Transaction will not have an adverse impact on rates and that the Transaction should be approved.

3. The Transaction Will Have No Adverse Effect on Regulation

The Transaction will have no adverse effect on regulation because it will not result in any change in federal regulatory authority over the Applicants or the Pleasants Facility. Sales of electric energy, capacity and ancillary services from the Pleasants Facility are currently made pursuant to AE Supply's market-based rate authority and, after the Transaction closes, sales will be made pursuant to Mon Power's market-based rate authority. Likewise, Mon Power and AE Supply will continue to be subject to the regulation of the relevant state commissions to the same extent as prior to the Transaction.

B. The Transaction Will Not Result in Cross-Subsidization or the Pledge or Encumbrance of Utility Assets

FPA Section 203(a)(4) requires the Commission to approve an acquisition or disposition of jurisdictional assets if the Commission determines that the proposed transaction will be consistent with the public interest and "will not result in cross-subsidization of a non-utility associate company or the pledge or encumbrance of utility assets for the benefit of an associate

⁷¹ *FirstEnergy Service Co.*, 143 FERC ¶ 61,062, at P 26 (2013).

company”⁷² The Commission has identified three classes of transactions that are unlikely to raise cross-subsidization concerns, absent issues identified by the Commission or evidence from intervenors that there is a cross-subsidy problem based on the particular circumstances presented.⁷³ One of these categories applies to “transactions that are subject to review by a state commission.”⁷⁴ The Transaction qualifies for this safe harbor because the WVPSC regulates all aspects of Mon Power’s retail rates, facilities, and service in West Virginia, and the Transaction must be approved by the WVPSC.

The WVPSC subjects to special review contracts and transactions between affiliates. Specifically, W. Va. Code § 24-2-12(f) states that, without WVPSC approval, “no public utility [may] . . . enter into any contract or arrangement for management, construction, engineering, supply or financial services or for the furnishing of any other service, property or thing, with any affiliated corporation, person, or interest” In addition, W. Va. Code § 24-2-12(c) requires WVPSC approval for the disposition of “franchises, licenses, permits, plants, equipment, businesses or other property.” In evaluating a transaction, the WVPSC will “grant its consent in advance . . . upon proper showing that the terms and conditions thereof are reasonable and that neither party thereto is given an undue advantage over the other, and do not adversely affect the public in this state.”⁷⁵ In accordance with these state regulations, the Applicants are filing, concurrently with this Application, an application for approval of the Transaction with the WVPSC. Therefore, the Transaction and any risks of cross-subsidization are subject to extensive review by the WVPSC and qualify for the “safe harbor” established by the *Supplemental Policy*

⁷² 16 U.S.C. § 824b(a)(4).

⁷³ *FPA Section 203 Supplemental Policy Statement*, FERC Stats. & Regs. ¶ 31,253, at P 16 (2007) (“*Supplemental Policy Statement*”).

⁷⁴ *Id.* at P 18.

⁷⁵ W. VA. CODE § 24-2-12.

Statement for transactions subject to review by a state commission.

Because the Transaction falls within one of the Commission's safe harbors, an Exhibit M containing a detailed explanation and evidentiary support to demonstrate lack of cross-subsidization is not required. However, out of an abundance of caution, Exhibit M hereto demonstrates that, based on facts and circumstances known to the Applicants or that are reasonably foreseeable, the Transaction will not result in, at the time of the Transaction or in the future, cross-subsidization of a non-utility associate company or pledge or encumbrance of utility assets for the benefit of an associate company. Exhibit M also contains, as required by 18 C.F.R. § 33.2(j)(1)(i), a list of existing pledges and encumbrances of the Applicants' regulated utilities.

V. INFORMATION REQUIRED UNDER PART 33

The Applicants are providing below all information necessary for the Commission to determine that the Transaction is consistent with the public interest as required by FPA Section 203. To the extent this Application omits any data required under Part 33 of the Commission's regulations, the Applicants respectfully request that the Commission grant waiver of such requirement. Granting waiver of such filing requirements under Part 33 of the Commission's regulations is consistent with Commission precedent.⁷⁶

A. Section 33.2(a) – Exact Name of the Applicants and Their Principal Business Addresses

Monongahela Power Company	Allegheny Energy Supply Company, LLC
5001 NASA Boulevard	800 Cabin drive
Fairmont, West Virginia 26554	Greensburg, PA 15601
c/o FirstEnergy Service Company	
76 South Main Street	
Akron, OH 44308	

⁷⁶ See, e.g., *Northeast Generation Co.*, 117 FERC ¶ 61,068 at P 17 (2006) (rejecting objections to applicants' request to waive the requirements to file certain information).

B. Section 33.2(b) – The Names and Addresses of Persons Authorized to Receive Notices and Communications Regarding the Application

The following persons are designated to receive notices and communications with respect to this Application:⁷⁷

Morgan E. Parke
Associate General Counsel
First Energy Service Company
76 South Main Street
Akron, OH 44308-1890
Tel: (330) 384-4595
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76 South Main Street
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C. Section 33.2(c) – Description of the Applicant (Exhibits A-F)

1. Business Activities (Exhibit A)

A description of the Applicants' respective business activities is provided in Section II of this Application. The Applicants respectfully request waiver of Section 33.2(c)(1) of the Commission's regulations to the extent it would require the submission of additional information in Exhibit A.

2. Energy Subsidiaries and Affiliates (Exhibit B)

Each Applicant's energy subsidiaries and affiliates are identified in Exhibit B to this Application.

⁷⁷ The Applicants respectfully request that the Commission waive 18 C.F.R. § 385.203(b)(3) to the extent necessary to allow each person listed to be included on the official service list for this proceeding.

3. Organizational Charts (Exhibit C)

As described herein, the Transaction will not affect the organizational structure of either Mon Power or AE Supply. Nevertheless, out of an abundance of caution, the Applicants are providing pre-and post-Transaction organizational charts showing the ownership of the Pleasants Facility.

4. Joint Ventures, Strategic Alliances, Tolling Arrangements or Other Business Arrangements (Exhibit D)

See Exhibit D.

5. Common Officers or Directors (Exhibit E)

See Exhibit E.

6. Wholesale Power Sales Customers and Unbundled Transmission Services Customers (Exhibit F)

Except, as explained in Section IV(A)(2) above, the Transaction will have no impact on Mon Power's transmission or wholesale power customers. In addition, the Transaction will have no adverse impact on AE Supply's wholesale power customers.⁷⁸ Moreover, the Applicants' Electronic Quarterly Reports provide information regarding their wholesale power sales customers and unbundled transmission services customers. Therefore, the Applicants respectfully request waiver of the requirement to file Exhibit F.

D. Section 33.2(d) – Jurisdictional Facilities Owned, Operated, or Controlled by Applicants or Their Affiliates (Exhibit G)

See Exhibit G.

E. Section 33.2(e) – Narrative Description of the Transaction (Exhibit H)

A description of the Transaction is provided in Section III.C of this Application. The Applicants respectfully request waiver of Section 33.2(e) of the Commission's regulations to the

⁷⁸ As described above, AE Supply does not provide any jurisdictional transmission services.

extent that it would require the submission of additional information in a separate Exhibit H.

F. Section 33.2(f) – Contracts Related to the Transaction (Exhibit I)

Confidential Exhibit I to this Application contains the APA, which is the document pursuant to which the Transaction will occur.

G. Section 33.2(g) – Facts Relied upon to Show That the Transaction Is Consistent with the Public Interest (Exhibit J)

The facts relied upon by the Applicants to demonstrate that the Transaction is consistent with the public interest are provided in Section IV.A of this Application. Because such information is provided in the body of this Application, the Applicants respectfully request waiver of Section 33.2(g) of the Commission's regulations to the extent that it would require the submission of additional information in a separate Exhibit J.

H. Section 33.2(h) – Key Map Showing Properties of Each Party to the Transaction (Exhibit K)

Because the Transaction does not involve a merger or other combination of jurisdictional facilities, a map would not provide the Commission with information that would assist the Commission in the evaluation of the Transaction. Nevertheless, out of an abundance of caution, Exhibit K provides a map showing the location of the Pleasants Facility, which is the only asset relevant to the Transaction. To the extent necessary, the Applicants respectfully request waiver of the requirement to provide information regarding the Applicants' other facilities in Exhibit K.

I. Section 33.2(i) – Other Regulatory Approvals (Exhibit L)

See Exhibit L.

J. Section 33.2(j) – Cross-Subsidizations, Pledges or Encumbrances of Utility Assets (Exhibit M)

The facts relied upon to demonstrate that the Transaction does not raise any cross-subsidization concerns are provided in Section IV.B of this Application and in Exhibit M.

K. Section 33.5 – Proposed Accounting Entries (Exhibit N)

Mon Power is subject to the Commission's Uniform System of Accounts. Pursuant to Section 33.5 of the Commission's regulations, Exhibit N provides proposed accounting entries for Mon Power that show the effect of the Transaction with sufficient detail to indicate the effect on all account balances, the effect on the income statements and the effects on other relevant financial statements.

AE Supply is not subject to the Commission's Uniform System of Accounts.⁷⁹

L. Section 33.7 – Verification

Attachment 1 includes the signed verification of each Applicant as required by Section 33.7 of the Commission's regulations.

VI. REQUEST FOR CONFIDENTIAL TREATMENT

Pursuant to Sections 33.8 and 388.112(b) of the Commission's regulations,⁸⁰ the Applicants request confidential treatment of certain Exhibits and Attachments to this Application, including: (i) Exhibit I, which contains the APA pursuant to which Mon Power intends to purchase the Pleasants Facility from AE Supply; (ii) certain portions of Attachment 2, the Ruberto Testimony summarizing Mon Power's need for capacity and the RFP development process and information related to the Transaction; and (iii) certain portions of Exhibit RJL-2 to Attachment 3, the Opinion Letter from CRA to Mon Power summarizing the RFP process and results. The information contained in the APA is commercially sensitive and not publicly-available, and disclosure of the information contained in the APA may cause substantial harm or result in a competitive disadvantage to the Applicants. Certain information in Attachments 2 and Exhibit RJL-2 to Attachment 3 is commercially sensitive and not publicly-available, and is

⁷⁹ *Allegheny Energy Supply Co.*, 88 FERC ¶ 61,303 (1999).

⁸⁰ 18 C.F.R. §§ 33.8, 388.112.

subject to the Non-Disclosure Agreements (“NDAs”) executed by Mon Power with each bidder as part of the RFP process. Pursuant to the NDAs, Mon Power must take reasonable protective measures to ensure the confidentiality of bid and bidder information. The Applicants are electronically filing confidential and public versions of this Application and ask that the confidential version be placed in the Commission’s non-public files. The Applicants understand that the Commission staff will notify them in advance of any public disclosure of any information contained in Exhibit I, Attachment 2 and Exhibit RJJ-2 to Attachment 3.

As required by the Commission’s regulations, the Applicants have included as Attachment 4 to this Application a proposed protective order under which parties to the proceeding will be able to review the information for which privileged treatment is sought.⁸¹ The proposed protective order is a modified version of the Commission’s Model Protective Order that has been used in other proceedings to restrict information available to competitive duty personnel.⁸²

VII. REQUEST FOR SHORTENED COMMENT PERIOD

The Applicants request that the Commission issue an order authorizing the Transaction no later than July 5, 2017, (*i.e.*, 120 days from the date of this Application) to permit the Transaction to close as soon as possible thereafter. Issuance of an order by that date is appropriate, because, as discussed above, the Transaction presents no competitive issues and is

⁸¹ *Id.* § 33.8.

⁸² *See, e.g.*, Helix Generation, LLC, Joint Application for Approval Under Section 203 of the Federal Power Act and Request for a Shortened Comment Period, Docket No. EC17-38 -000, at fn. 6 (filed Nov. 21, 2016).

otherwise consistent with the public interest. To that end, Applicants request the Commission grant a shortened comment period of 45-days.⁸³

VIII. CONCLUSION

For the reasons set forth in this Application, the Applicants request that the Commission: (i) grant the waivers of the Commission's Part 33 requirements requested herein, (ii) issue an order approving the Transaction on or before July 5, 2017 (*i.e.*, 120 days from the date of this Application) to permit the Transaction to close as soon as possible thereafter; and (iii) grant Mon Power's request for a shortened comment period of 45 days.

Respectfully submitted,

/s/ George D. Cannon, Jr.

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Counsel for Allegheny Energy Supply Company, LLC

Dated: March 7, 2017

⁸³ See 18 C.F.R. § 33.11(b) ("The Commission will provide for the expeditious consideration of completed applications for the approval of transactions that are not contested, do not involve mergers, and are consistent with the public interest.").

EXHIBIT B

APPLICANTS' ENERGY SUBSIDIARIES AND AFFILIATES

EXHIBIT B**Applicants' Energy Subsidiaries and Affiliates**

Applicants' energy-related subsidiaries and affiliates are as follows:

ENTITY	OWNERSHIP¹	PRIMARY BUSINESS ACTIVITY
American Transmission Systems, Incorporated	FirstEnergy Transmission, LLC ("FET")	owner and operator of electric transmission facilities
Mid-Atlantic Interstate Transmission, LLC	FET	owner and operator of electric transmission facilities
Trans-Allegheny Interstate Line Company	FET	owner and operator of electric transmission facilities
AET PATH Company, Potomac-Appalachian Transmission Highline, LLC ("AET PATH")	FET	Electric transmission (inactive)
Potomac-Appalachian Transmission Highline, LLC ("PATH")	AET PATH	Future owner and operator of electric transmission facilities (inactive)
West Virginia Series, Potomac-Appalachian Transmission Highline, LLC ("West Virginia Series")	50% AET PATH 50% AEP Transmission Holding Company, LLC (non-affiliate)	Future owner and operator of electric transmission facilities (inactive)
AYE Series	AET PATH	Future owner and operator of electric transmission facilities (inactive)
PATH Allegheny Transmission Company, LLC	AYE Series	Future owner and operator of electric transmission facilities (inactive)
PATH-Allegheny Land Acquisition Company	PATH-Allegheny Transmission Company, LLC	Acquisition of right-of-way for electric transmission facilities (inactive)
PATH-Allegheny Maryland Transmission Company, LLC	97% by PATH-Allegheny Transmission Company, LLC and 3% by Potomac Edison	Future owner of electric transmission facilities (inactive)

¹ Each entity listed is owned 100% by its owner unless otherwise indicated.

ENTITY	OWNERSHIP¹	PRIMARY BUSINESS ACTIVITY
PATH-Allegheny Virginia Transmission Corporation	PATH-Allegheny Transmission Company, LLC	Future owner and operator of electric transmission facilities (inactive)
PATH West Virginia Transmission Company, LLC	West Virginia Series	Future owner and operator of electric transmission facilities (inactive)
The Cleveland Electric Illuminating Company	FirstEnergy Corp. (“FirstEnergy”)	Provides electric service
Ohio Edison Company (“OE”)	FirstEnergy	Provides electric service
Pennsylvania Power Company	OE	Provides electric service
The Toledo Edison Company	FirstEnergy	Provides electric service
Pennsylvania Electric Company (Penelec)	FirstEnergy	Provides electric service
The Waverly Electric Light and Power Company	Penelec	Provides electric service
West Penn Power Company (“West Penn”)	FirstEnergy	Transmission and distribution of electricity
Monongahela Power Company (“Mon Power”)	FirstEnergy	Transmission and distribution of electricity
The Potomac Edison Company (“Potomac Edison”)	FirstEnergy	Transmission and distribution of electricity
Jersey Central Power & Light Company	FirstEnergy	Provides electric service
Metropolitan Edison Company	FirstEnergy	Provides electric service
FirstEnergy Solutions Corp. (“Solutions”)	FirstEnergy	Provides energy products and services
FirstEnergy Generation, LLC (“FEG”)	Solutions	Owns and operates non-nuclear power plants
FirstEnergy Nuclear Generation, LLC (“FENG”)	Solutions	Owns nuclear power plants and provides electricity products from nuclear power plants

ENTITY	OWNERSHIP ¹	PRIMARY BUSINESS ACTIVITY
FirstEnergy Nuclear Operating Company	FirstEnergy	Operates and maintains nuclear power plants
FirstEnergy Generation Mansfield Unit 1 Corp.	FEG	Provides electric products
Norton Energy Storage L.L.C.	FEG	Compressed air storage facility under development
Ohio Valley Electric Corporation (“OVEC”)	0.85% ownership by OE, 4.0% ownership by TE, and 3.5% ownership by FirstEnergy. 91.65% ownership by non-affiliates.	Provides electric products
Indiana-Kentucky Electric Corporation	100% by OVEC, with indirect 0.85% ownership by OE, 4.0% ownership by TE, and 3.5% ownership by FirstEnergy. 91.65% indirect ownership by non-affiliates.	Provides electric products
Signal Peak Energy LLC (“Signal Peak”)	FE Ventures owns 33.33% interest in joint venture that owns 100% of Signal Peak. 66.67% ownership by non-affiliates.	Provides electricity inputs and transportation
FirstEnergy Ventures Corp. (“FE Ventures”)	FirstEnergy	Holds a 50% ownership interest in joint venture that owns Signal Peak
Allegheny Energy Supply Company, LLC (“AE Supply”)	FirstEnergy	Electric generation and marketing
Allegheny Generating Company	59.38% by AE Supply and 40.62% by Mon Power	Holds a 40% interest in the Bath County Pumped Storage Station
Allegheny Pittsburgh Coal Company	50% by West Penn, 25% by Mon Power, and 25% by Potomac Edison	Owns coal reserves
APS Constellation, LLC	50% by Allegheny Ventures, Inc. and 50% by Constellation Energy (non-affiliate)	Marketing, development, and implementation of energy conservation services

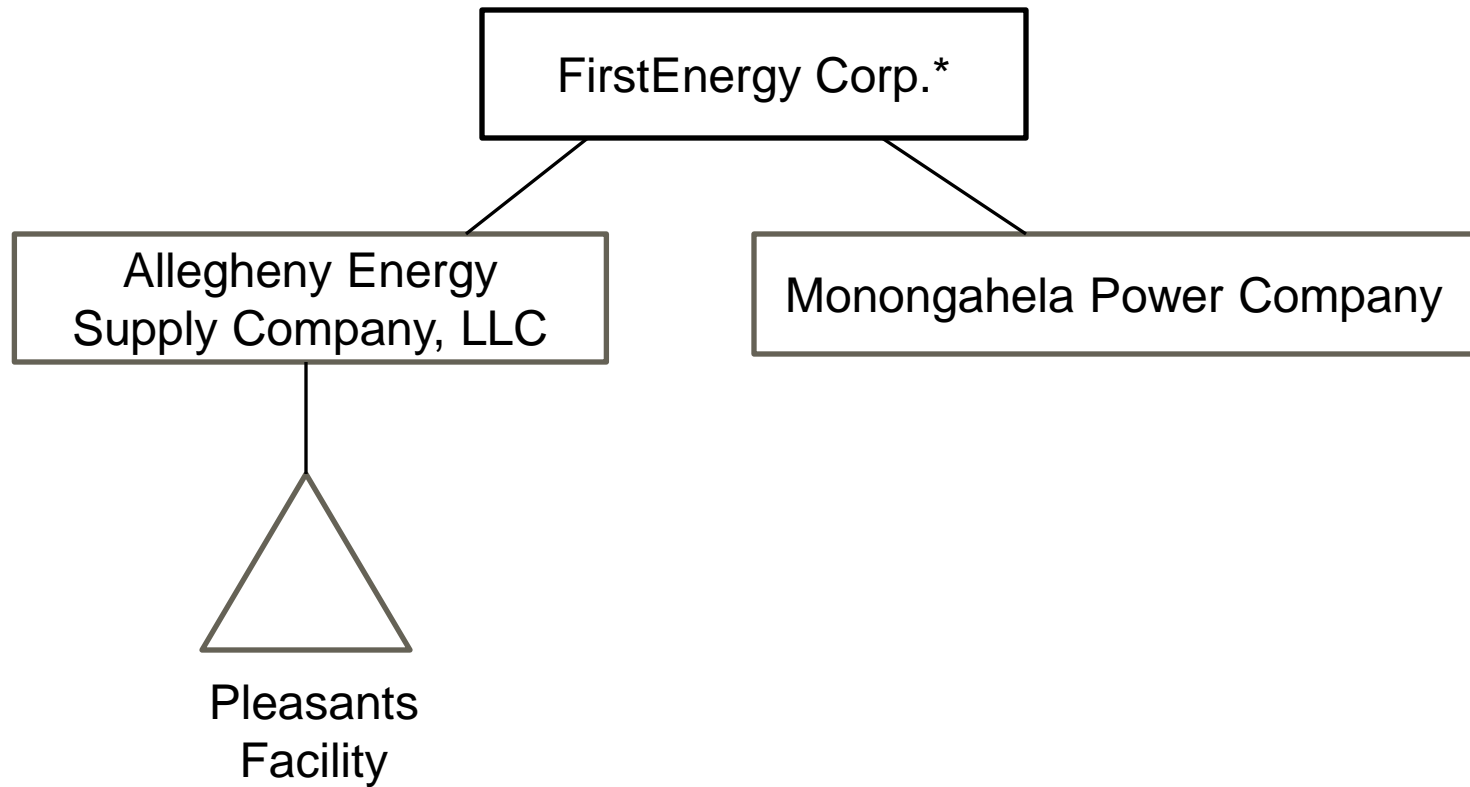
ENTITY	OWNERSHIP ¹	PRIMARY BUSINESS ACTIVITY
Allegheny Ventures, Inc.	FirstEnergy	Owns interests in APS Constellation, LLC and MABCO Stream
Buchanan Energy Company of Virginia, LLC (“Buchanan Energy”)	AE Supply	Holds 50% interest in Buchanan Generation, LLC
Buchanan Generation, LLC	50% by Buchanan Energy and 50% by CONSOL Energy Inc. (non-affiliate)	Electric generation

EXHIBIT C

ORGANIZATIONAL CHARTS

Exhibit C-1

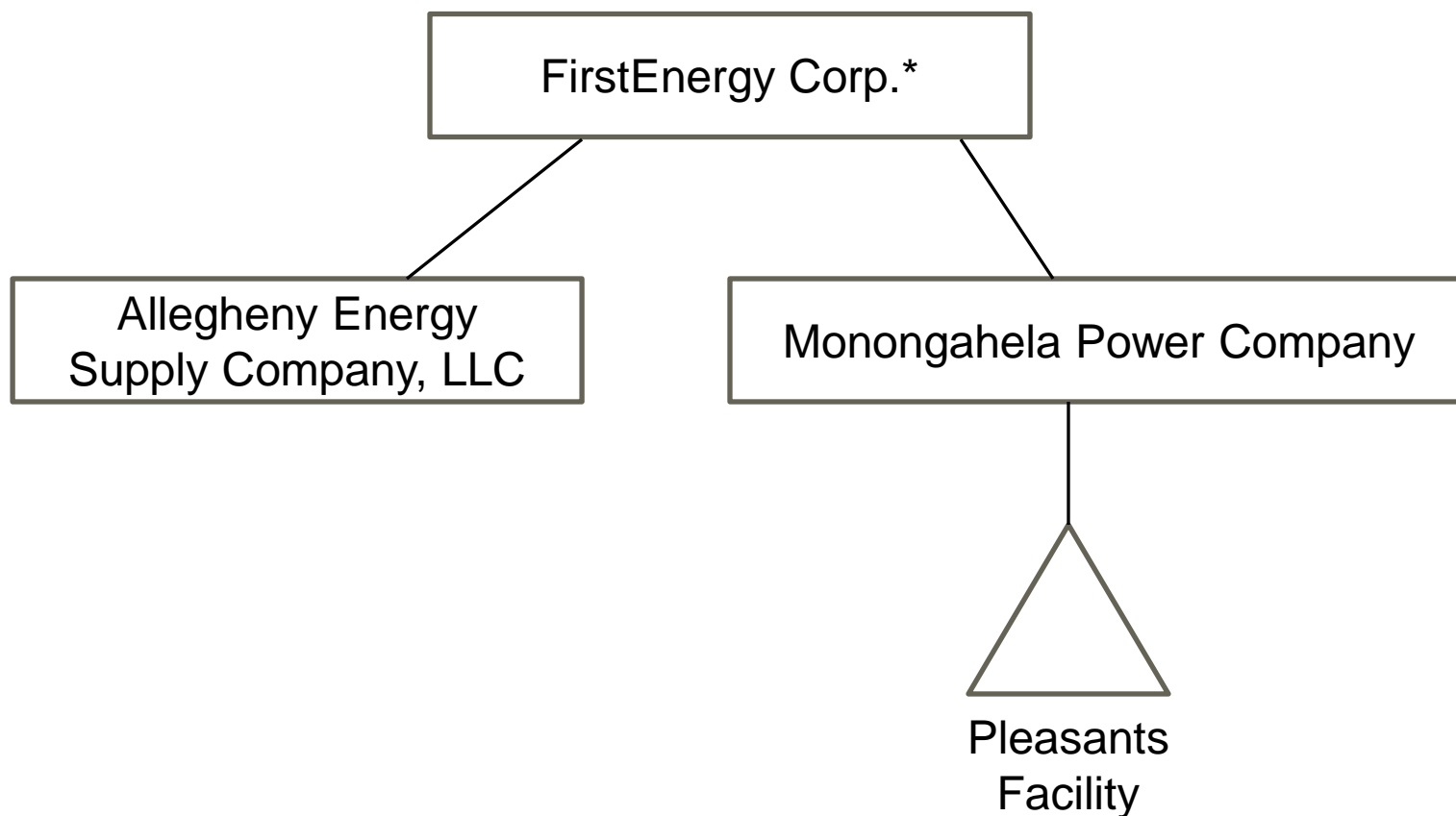
Current Ownership of Pleasants Facility



*Chart does not reflect all FirstEnergy subsidiaries.

Exhibit C-2

Post Transaction Ownership of Pleasants Facility



*Chart does not reflect all FirstEnergy subsidiaries.

EXHIBIT D

JOINT VENTURES, STRATEGIC ALLIANCES,
TOLLING ARRANGEMENTS, AND
OTHER BUSINESS ARRANGEMENTS

EXHIBIT D

Joint Ventures, Strategic Alliances, Tolling Arrangements, and Other Business Arrangements

Monongahela Power Company (“Mon Power”) currently leases a portion of its existing generation assets to its affiliate Potomac Edison (“PE”) under the Facilities Lease and Assignment Agreement (“FLA”).¹ In addition, Mon Power provides capacity, energy and ancillary service to PE pursuant to a Full Requirements Power Purchase Agreement (“PPA”).² The Applicants estimate that the Transaction will initially result in a decrease to PE’s annual costs under the PPA and the FLA of approximately \$7.5 million, or about 4%, as described in Section IV.A.2 of the Application. No other joint ventures, strategic alliances, tolling arrangements or other business arrangements are affected by the Transaction.

¹ *Monongahela Power Co.*, First Revised FERC Electric Tariff No. 59. *Monongahela Power Co.*, Tariff Sheets Inception to Date, filed Jan. 10, 2009, Docket Nos. ER07-237-001, *et al.*; *Monongahela Power Co.*, Letter Order, issued Jan. 30, 2007, Docket Nos. ER07-321-000, *et al.* The Commission has conditionally accepted a revised version of Exhibit A to the FLA. *Monongahela Power Co.*, Letter Order issued Oct. 5, 2012, Docket Nos. ER12-2560-000 and ER12-2591-000.

² *Monongahela Power Co.*, First Revised FERC Electric Tariff No. 60 (Amended and Restated Full Requirements Service Agreement Between Monongahela Power Company and The Potomac Edison Company, dba Allegheny Power) §§ 2.1, 6.1-6.2, filed Dec. 8, 2006, Docket No. ER07-321-000; *Monongahela Power Co.*, Letter Order, issued Jan. 30, 2007, Docket Nos. ER07-321-000, *et al.*

EXHIBIT E

COMMON OFFICERS AND DIRECTORS

EXHIBIT E**COMMON OFFICERS OR DIRECTORS**

Officer or Director	Allegheny Energy Supply Company, LLC	Monongahela Power Company
James F. Pearson	Director	Director and Executive Vice President and Chief Financial Officer
James G. Garanich	Vice President, Tax	Vice President, Tax
Ketan K. Patel	Vice President and Corporate Secretary	Vice President and Corporate Secretary
Steven R. Staub	Vice President and Treasurer	Vice President and Treasurer
Jason S. Petrik	Controller	Assistant Controller
Daniel M. Dunlap	Assistant Corporate Secretary	Assistant Corporate Secretary
Ermal Fatusha	Assistant Treasurer	Assistant Treasurer

EXHIBIT G

JURISDICTIONAL FACILITIES OWNED, OPERATED, OR
CONTROLLED BY APPLICANT OR ITS AFFILIATES

Exhibit G

Jurisdictional Facilities Owned, Operated, or Controlled by Applicant or Its Affiliates

The relevant jurisdictional facilities consist only of the Pleasants Facility's limited interconnection facilities that are necessary to connect the Pleasants Facility to the grid. The Interconnection and Operating Agreement for the Pleasants Facility, dated March 6, 2002, was approved by the Commission on April 3, 2002. *Allegheny Energy Supply Co., LLC, et al.*, Docket No. ER02-1251-000 (April 3, 2002) (unpublished letter order).

EXHIBIT I

ASSET PURCHASE AGREEMENT

(REDACTED)

EXHIBIT K

MAP OF PLEASANTS FACILITY

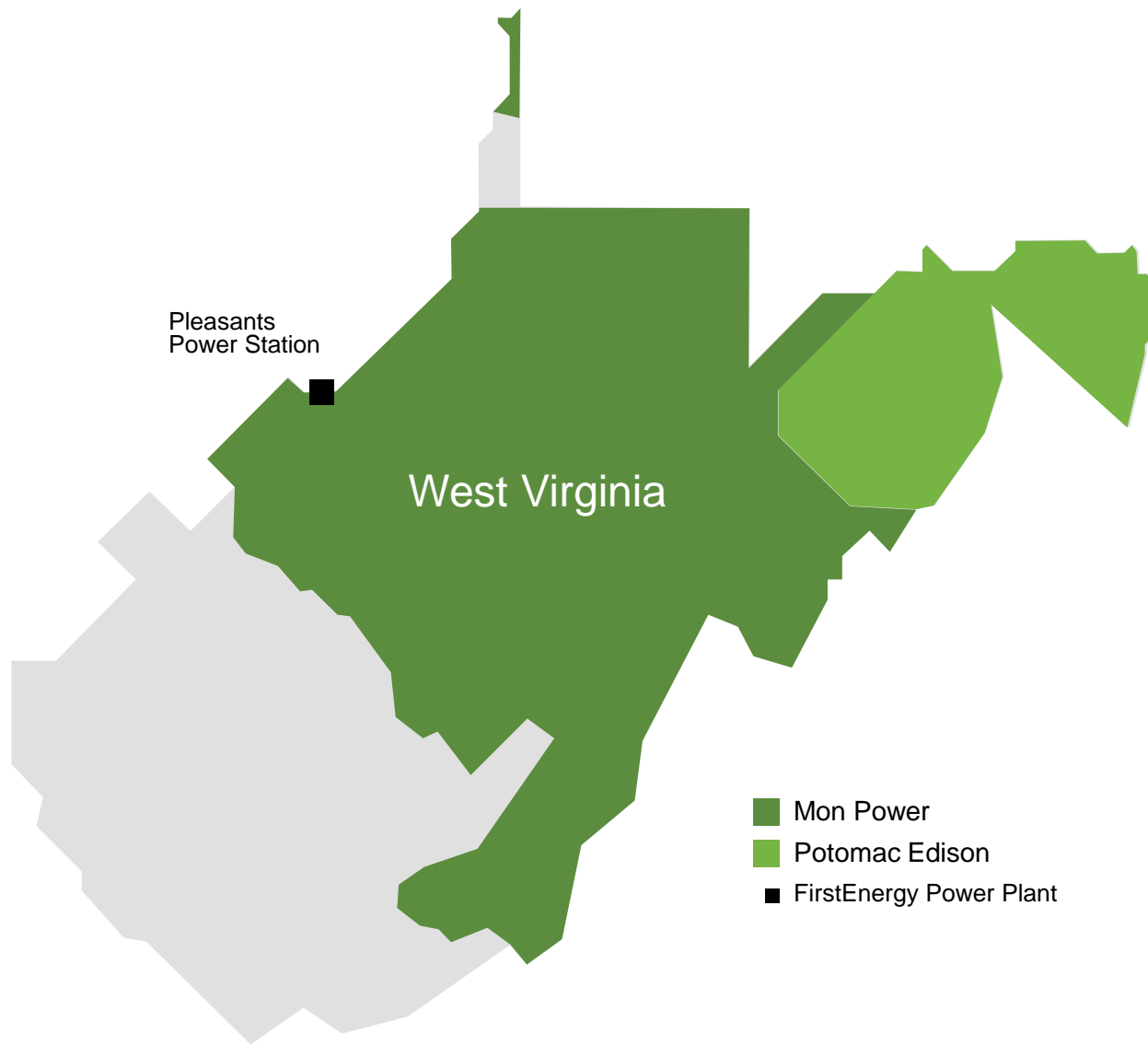


EXHIBIT L

OTHER REGULATORY APPROVALS

EXHIBIT L

OTHER REGULATORY APPROVALS

The Applicants will be seeking approval of the transaction by the Public Service Commission of West Virginia.

EXHIBIT M

CROSS-SUBSIDIZATIONS, PLEDGES OR ENCUMBRANCES OF UTILITY ASSETS

EXHIBIT M

THE TRANSACTION WILL NOT RESULT IN CROSS-SUBSIDIZATION OR PLEDGE OR ENCUMBRANCE OF UTILITY ASSETS

The Transaction raises no issues concerning cross-subsidization. Section 203(a)(4) of the Federal Power Act (“FPA”) requires the Commission to determine whether a proposed transaction will “result in, at the time of the transaction or in the future, cross-subsidization of a non-utility associate company or the pledge or encumbrance of utility assets for the benefit of an associate company”¹ and, if so, whether the cross-subsidy, pledge or encumbrance will be consistent with the public interest.² The Commission’s regulations³ require the Applicants, in Exhibit M, to disclose existing pledges and encumbrances on utility assets and demonstrate that the proposed transaction will not result in:

- (A) Any transfer of facilities between a traditional public utility associate company that has captive customers or that owns or provides transmission service over jurisdictional transmission facilities, and an associate company;
- (B) Any new issuance of securities by a traditional public utility associate company that has captive customers or that owns or provides transmission service over jurisdictional transmission facilities, for the benefit of an associate company;
- (C) Any new pledge or encumbrance of assets of a traditional public utility associate company that has captive customers or that owns or provides transmission service over jurisdictional transmission facilities, for the benefit of an associate company; or
- (D) Any new affiliate contract between a non-utility associate company and a traditional public utility associate company that has captive customers or that owns or provides transmission service over jurisdictional transmission facilities, other than non-power goods and services agreements subject to review under sections 205 and 206 of the Federal Power Act.⁴

¹ 18 C.F.R. § 33.2(j) (2016).

² 16 U.S.C. § 824b(a)(4) (2012).

³ 18 C.F.R. § 33.2.

⁴ *Id.* § 33.2(j)(1).

In the alternative, “if no such assurance can be provided,” the Applicants must provide “an explanation of how such cross-subsidization, pledge, or encumbrance will be consistent with the public interest.”⁵

Safe Harbor

The Commission has recognized that transactions “subject to review by a state commission”⁶ are unlikely to raise cross-subsidization concerns. As discussed in Section IV.B of the Application, the Transaction qualifies for this “safe harbor” because the Public Service Commission of West Virginia regulates all aspects of Mon Power’s retail rates, facilities, and service in West Virginia. Because the Transaction falls within a safe harbor, an Exhibit M containing detailed explanation and evidentiary support to demonstrate lack of cross-subsidization is not required. However, out of an abundance of caution, the Applicants demonstrate below that, based on facts and circumstances known to the Applicants or that are reasonably foreseeable, the Transaction will not result in, at the time of the Transaction or in the future, cross-subsidization of a non-utility associate company or pledge or encumbrance of utility assets for the benefit of an associate company.

33.2(j)(1)(i): Existing Pledges and Encumbrances

The existing pledges and encumbrances of the assets of Mon Power and AE Supply are listed below.

Monongahela Power: An indenture, dated as of August 1, 1945, between Mon Power, as issuer, and Citibank, N.A., as Trustee (as successor to City Bank Farmers Trust Company), as supplemented by the first through ninety-fifth supplemental indentures thereto, provides a lien upon all of Mon Power’s property, both real and personal, with some minor exceptions, including

⁵ *Id.* § 33.2(j)(2).

⁶ *FPA Section 203 Supplemental Policy Statement*, 120 FERC ¶ 61,060, at P 18 (2007).

cash, accounts receivable, common stock, inventory and supplies and electric energy. There is no specific dollar limit on the amount of indebtedness that can be secured under the indenture. If Mon Power wishes to issue new bonds, it must satisfy two indenture requirements. First, it must demonstrate that it has sufficient net earnings for the previous 12 month period that is equal to not less than twice the amount of annual interest of any outstanding bonds plus the annual interest of the proposed new bonds. Second, Mon Power must pledge to the Trustee sufficient property additions that have not been previously pledged, that constitute 10/6 or approximately 160% of the proposed new bond issue. Prior to closing the Transaction, Mon Power will secure a release of the lien on its interest in the Pleasants Facility under the indenture.

AE Supply: AE Supply is a party to a Deed of Trust and Security Agreement dated as of November 1, 1977, between AE Supply and The Bank of New York Trust Company, N.A., as trustee, in connection with (i) Trust Indenture dated as of November 1, 1977 between the Pleasants County, West Virginia and The Bank of New York Trust Company, N.A. (as successor to Chase Manhattan Trust Company, National Association as successor to Mellon Bank, N.A.), as trustee, as supplemented by the first through fifth supplemental indentures thereto; and (ii) Pollution Control Financing Agreement, dated as of November 1, 1977, among the County Commission of Pleasants County, West Virginia, and AE Supply as successor to The Potomac Edison Company, and West Penn Power Company (as supplemented). The Deed of Trust and Security Agreement creates a lien on certain pollution control assets at the Pleasants Facility in favor of the bond trustee for the equal and ratable benefit of the bond holders. As part of consideration for AE Supply's ownership in the Pleasants Facility, Mon Power is expected to assume a \$142 million promissory note ("Note") that is secured by the Deed of Trust and

Security Agreement. Mon Power will receive a credit against the purchase price of the Pleasants Facility equal to the par value of the Note (\$142 million) if assumed.

There are no other existing pledges and encumbrances on the Pleasants Facility.

33.2(j)(1)(ii)(A): Transfer of Facilities

The Transaction involves the transfer of the Pleasants Facility to Mon Power, a traditional public utility associate company that has captive customers, from AE Supply, a market regulated associate company. As discussed below, the Transaction does not result in cross-subsidization because it meets an identified need for Mon Power to acquire additional capacity resources, is “on terms similar to any other competitive alternatives available,”⁷ and will not adversely impact competition, rates, or regulation.

33.2(j)(1)(ii)(B): New Issuance of Securities

The Transaction does not involve any new issuance of securities by a traditional public utility associate company that has captive customers, or that owns or provides transmission service over jurisdictional transmission facilities, for the benefit of an associate company. The Transaction will be financed by Mon Power through a combination of debt and equity. Mon Power will, if necessary, file a separate application under Section 204 of the FPA for any required financing authority. Any such financing transaction will not be for the benefit of an associate company; instead, it will be a means to finance Mon Power’s acquisition of the Pleasants Facility.

33.2(j)(1)(ii)(C): New Pledge or Encumbrance

The Transaction does not involve any new pledge or encumbrance of assets of a traditional public utility associate company that has captive customers or that owns or provides

⁷ *Ameren Energy Generating Co.*, 108 FERC ¶ 61,081, at P 12 (2004) (“*Ameren Energy*”).

transmission service over jurisdictional transmission facilities, for the benefit of an associate company. As noted above, the Transaction will be financed by Mon Power through a combination of debt and equity. Mon Power will, if necessary, file a separate application under Section 204 of the FPA for any required financing authority. Any such financing transaction will not be for the benefit of an associate company; instead, it will be a means to finance Mon Power's acquisition of the Pleasants Facility.

33.2(j)(1)(ii)(D): New Affiliate Contracts

The Transaction does not involve any new affiliate contracts between a non-utility associate company and a traditional public utility associate company that has captive customers or that owns or provides transmission service over jurisdictional transmission facilities.

33.2(j)(2): Public Interest

The Transaction is in the public interest because it is the most cost-effective means of reliably fulfilling Mon Power's identified energy and capacity needs, is the result of a competitive solicitation process that ensured there was no affiliate preference, and, as discussed in the Application, will not adversely impact wholesale competition, rates, or regulation.

The Transaction Fills an Identified Need for Additional Capacity Resources

As described in the Application and attached testimony of Mr. Ruberto, Mon Power determined in its 2015 Integrated Resource Plan ("IRP") that it would have a capacity shortfall beginning in the winter peaking period of 2016 that was projected to exceed 700 MW by 2020 and 850 MW by 2027. Subsequent to the issuance of the IRP, Mon Power continued to evaluate its generation portfolio. As a result of the impact of the "Capacity Performance" market design within PJM Interconnection, L.L.C., Mon Power's related decision to sell its indirect interest in the Bath County Pumped Storage Project, and higher projected load based on increased

economic development, Mon Power updated its load and capacity forecast from the IRP and revised its projected capacity shortfall to approximately 1,005 MW by 2020 and 1,439 MW by 2027. The Transaction facilitates Mon Power's acquisition of economic and reliable generating capacity required to meet its projected needs as well as its full requirements service obligation to its affiliate, The Potomac Edison Company.

The Purchase Price Is the Result of a Competitive Solicitation

The Commission has found that “in the context of an acquisition of affiliated generation, a competitive solicitation is the most direct and reliable way to ensure no affiliate preference.”⁸ As described in the Application and attached testimonies of Mssrs. Ruberto and Lee, the Transaction for which Commission authorization is sought herein is the result of a transparent, fair, and non-discriminatory Request for Proposals (the “RFP”) issued by Mon Power on December 16, 2016, seeking to procure ownership of one or more dispatchable generation facilities amounting to approximately 1,300 MW of Unforced Capacity and up to 100 MW of demand response (“DR”) resources. Mon Power retained an independent third-party, Charles River Associates (“CRA”), to design and administer the RFP process, including the solicitation of bids for available capacity resources. CRA worked with Mon Power to prepare the RFP documentation and ensure the product requested was clearly defined and the evaluation criteria clearly specified in the RFP documentation, which was available to all interested parties via the RFP information website administered by CRA. CRA and Mon Power agreed to a number of process safeguards that ensured all proposals would be reviewed on a fair and equitable basis regardless of their affiliate status.

After the proposals were received, CRA, as the RFP Manager: (i) reviewed all proposals and screened the responses to ensure they conformed with all response requirements; (ii)

⁸ Ameren at P 67.

conducted follow up conference calls with representatives of each company submitting a conforming proposal to talk through issues with the information provided; (iii) evaluated all conforming proposals according to the pre-specified criteria as outlined in the RFP document; (iv) managed bidder communication and outreach; and (v) confirmed the Pleasants Facility as the winning proposal. Mon Power was not directly involved in CRA's evaluation of proposals nor was Mon Power aware of bidder identities as part of the RFP's Q&A process. During the evaluation, Mon Power was only made generally aware of the progress and/or any issues encountered by CRA during its review.

The RFP process sought offers to sell generation to Mon Power pursuant to the Commission's guidelines for a competitive process that ensures that there is no preference for any affiliated supplier. As such, the RFP outcome represents a competitive outcome. The Commission therefore can find that the RFP process yielded a purchase price that is similar to other competitive alternatives available. Accordingly, the Transaction will not result in, at the time of the Transaction or in the future, cross-subsidization of a non-utility associate company or the pledge or encumbrance of utility assets for the benefit of an associate company.

The Transaction Will Not Harm Competition, Rates, or Regulation

Section IV.A of the Application explains that the Transaction will not harm competition, rates, or regulation.

Summary

The Applicants respectfully request that the Commission find that the Transaction is in the public interest and approve this Application without modification or condition. The Applicants verify that, based on the information known to them or that is reasonably foreseeable, the Transaction will not result in, at the time of the Transaction, or in the future, "cross-

subsidization of a non-utility associate company or the pledge or encumbrance of utility assets for the benefit of an associate company.”⁹

⁹ 18 C.F.R. § 33.2(j).

EXHIBIT N

ACCOUNTING ENTRIES OF MONONGAHELA POWER

**Monongahela Power Company Acquisition of Allegheny Energy Supply Company, LLC's
Ownership Interest in Pleasants Generation Station
December 31, 2016**

	FERC Account	Debit	Credit	Entry Description
A	102 Electric Plant Purchased or Sold	195,000,000		To record the acquisition of the Pleasants Generation Station at the purchase price, materials and supplies inventory and fuel stock at cost (net of reserve), less par value of associated pollution control bond and assumption of the asset retirement obligation associated with the station.
	151 Fuel Stock	18,073,538		
	154 Plant Materials And Operating Supplies (net of reserve)	6,845,040		
	223 Advances From Associated Companies		142,000,000	
	230 ARO Liability		1,766,436	
	131 Cash		76,152,141	
B	101 Electric Plant In Service	1,444,365,200		To record clearing of account 102 to original cost and accumulated depreciation and electric plant acquisition adjustments, which reflects impairments partially offset by purchase accounting adjustments recorded by Allegheny Energy Supply Company.
	106 Completed Construction not Classified	55,349,045		
	102 Electric Plant Purchased or Sold		195,000,000	
	107 Construction Work In Progress	22,668,299		
	108 Accumulated Provision For Depreciation Of Electrical Utility Plant		745,369,964	
	114 Electric Plant Acquisition Adjustments		582,012,580	
C	190 Accumulated Deferred Income Taxes	33,120,307		To record a deferred tax asset for the excess of the transfer price over the assumed tax basis, and to recognize accumulated deferred income taxes representing the net book value over the original tax basis -- consistent with FERC regulations on accounting for deferred income taxes on intercompany property transfers.
	282 Accumulated Deferred Income Taxes - Other Property		33,120,307	

ATTACHMENT 1

VERIFICATIONS OF APPLICANTS

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Monongahela Power Company)
and)
Allegheny Energy Supply Company, LLC)

VERIFICATION OF APPLICATION

The undersigned, being duly sworn, states that he is the authorized representative of Monongahela Power Company; that he has read the application in this docket and knows the contents thereof; and that all of the statements contained therein with respect to the foregoing entity are true and correct to the best of his knowledge, information, and belief.

K. Jon Taylor
Vice President and Controller
Monongahela Power Company

Subscribed and sworn to before me
this 28 day of February, 2017

Cathy L. Ray
Notary Public
for the State of Ohio

My Commission expires:

June 29, 2019

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

**Monongahela Power Company
and
Allegheny Energy Supply Company, LLC**

VERIFICATION OF APPLICATION

The undersigned, being duly sworn, states that he is the authorized representative of Allegheny Energy Supply Company, LLC; that he has read the application in this docket and knows the contents thereof; and that all of the statements contained therein with respect to the foregoing entity are true and correct to the best of his knowledge, information, and belief.

Steen R. Stand

Steven R. Staub
Vice President and Treasurer
FirstEnergy Service Company

Subscribed and sworn to before me
this 28 day of February, 2017

Nichole A. Buchtel
Notary Public
for the State of Ohio



MICHELE A. BUCHTEL
NOTARY PUBLIC
STATE OF OHIO
Recorded in
Summit County
My Comm. Exp. 8/28/2021

My Commission expires: Aug 28, 2021

PUBLIC VERSION
PRIVILEGED AND CONFIDENTIAL INFORMATION REMOVED

ATTACHMENT 2

DIRECT TESTIMONY OF JAY A. RUBERTO

PUBLIC VERSION
PRIVILEGED AND CONFIDENTIAL INFORMATION REMOVED

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Monongahela Power Company)	
and)	
Allegheny Energy Supply Company, LLC)	Docket No. EC17-____-000

PREPARED DIRECT TESTIMONY OF JAY A. RUBERTO

1 **Q. Please state your name and business address.**

2 A. My name is Jay A. Ruberto. My business address is 5001 NASA Boulevard,
3 Fairmont, West Virginia.

4 **Q. What is your position?**

5 A. I am the Director, Regulated Generation and Dispatch, for FirstEnergy Service
6 Company (“FSC”). In this position, I am responsible for the regulated generation
7 portfolio for the utility subsidiaries of FirstEnergy Corp. (“FirstEnergy”), including
8 Monongahela Power Company (“Mon Power”). Among other duties, I am
9 responsible for asset management, strategic optimization, and the dispatch of the
10 regulated generation assets of Mon Power. This includes reviewing Mon Power’s
11 major generation expenditures, its fuel procurement, its capital projects, and its
12 supply of generation to The Potomac Edison Company (“PE,” and with Mon Power,
13 the “Companies”).

14 **Q. Please describe your educational background and qualifications.**

15 A. I graduated from The Pennsylvania State University in 1983 with a Bachelor of
16 Science degree in Electrical Engineering. From 1984 to 2006, I held several positions
17 with Allegheny Energy, Inc. (“Allegheny”), including Director, Customer Service;
18 General Manager, Customer Service Center (“CSC”); Team Leader, CSC Support;

1 Supervisor, Division Customer Services and Accounting; and various engineering
2 positions. Between 2006 and 2011, I was Director, Transmission Siting, for
3 Allegheny Energy Service Corporation, where I was responsible for the siting of
4 transmission lines, real estate and rights of way, drafting documents and records, and
5 permitting and surveying for the Allegheny subsidiary operating companies.
6 Following the merger of Allegheny and FirstEnergy in 2011 and before taking my
7 current position, I was Senior Advisor, Transmission and Substation Engineering at
8 FSC responsible for siting large transmission projects regulated by the Federal
9 Energy Regulatory Commission (“FERC” or the “Commission”) throughout
10 FirstEnergy’s service territory.

11 **Q. Have you previously testified before FERC?**

12 A. Yes. A list of the FERC dockets in which I have submitted testimony is attached as
13 Exhibit JAR-1.

14 **Q. Can you describe the purpose of this proceeding?**

15 A. In this proceeding, Mon Power and Allegheny Energy Supply Company, LLC (“AE
16 Supply”), which are both direct, wholly-owned subsidiaries of FirstEnergy, are jointly
17 seeking FERC authorization pursuant to Section 203 of the Federal Power Act for the
18 transfer by AE Supply, and the acquisition by Mon Power, of the Pleasants Power
19 Station, a coal-fired electric generating facility located in Willow Island, West
20 Virginia that is approximately 1,159 megawatts (“MW”) of Unforced Capacity
21 (“UCAP”) (the “Pleasants Facility”). As I will describe in this testimony, which I am
22 submitting on behalf of Mon Power, the sale of the Pleasants Facility from AE

1 Supply to Mon Power is the result of a transparent, fair, and non-discriminatory
2 Request for Proposals (“RFP”) process overseen by an independent third-party.

3 **Q. What is the purpose of your testimony in this proceeding?**

4 First, I will describe Mon Power and the process by which Mon Power determined
5 that it would need to acquire additional resources to meet its future energy capacity
6 obligations. Second, I will describe how Mon Power’s efforts to satisfy its projected
7 need for capacity, including: (i) Mon Power’s determination that the capacity
8 resources would need to be dispatchable and located in the PJM Interconnection,
9 L.L.C. (“PJM”) Allegheny Power Systems (“APS”) zone; (ii) Mon Power’s
10 determination that it would meet its need through the acquisition of resources, rather
11 than through power purchase agreements (“PPAs”); and (iii) Mon Power’s decision to
12 engage an independent third-party, Charles River Associates (“CRA”), to work with
13 Mon Power to design and then independently administer a transparent, fair and non-
14 discriminatory RFP process. Third, I will describe the evaluation criteria, including
15 the price and non-price criterion, that CRA applied when reviewing proposals
16 submitted in response to the RFP. Fourth, I will show how the evaluation criteria
17 were designed to solicit proposals that would meet the capacity needs of Mon Power
18 and provide the optimal combination of value, risk, and reliability for Mon Power and
19 PE and their customers. Fifth, I will describe the proposal by AE Supply to sell the
20 Pleasants Facility to Mon Power, which CRA recommended as the winning proposal
21 in the RFP.

22 **I. MON POWER AND ITS NEED FOR ADDITIONAL CAPACITY**
23 **RESOURCES**

1 **Q. Please describe Mon Power.**

2 A. Mon Power is a direct, wholly-owned subsidiary of FirstEnergy. Mon Power owns
3 property and does business as an electric public utility in West Virginia, providing
4 generation, transmission, and distribution services in 13,000 square miles of northern
5 West Virginia, covering an area with a population of approximately 800,000. Mon
6 Power's rates for transmission service are provided in Attachments H-11 and H-11A
7 of the PJM Open Access Transmission Tariff.¹ Mon Power is authorized by FERC to
8 make wholesale sales of electric energy, capacity, and ancillary services at market-
9 based rates.²

10 Mon Power's electric portfolio in West Virginia consists of 3,700 MW of
11 generation capacity, including approximately 150 MW of non-utility generator
12 ("NUG") resources, over 2,000 circuit miles of transmission lines at voltages ranging
13 from 69 kV to 500 kV, and more than 25,464 circuit miles of distribution lines at
14 voltages ranging from 2.4 kV to 34.5 kV. Mon Power owns a mix of generating
15 resources consisting of fossil-fuel plants and hydroelectric pumped storage.
16 Additionally, Mon Power purchases capacity and energy from PJM. Mon Power also
17 provides all of the generation supply in the West Virginia service territory of its
18 affiliate, PE, which provides electric service to approximately 140,000 customers.

19 **Q. Can you explain how Mon Power determined that it would need additional**
20 **resources to meet its projected capacity needs?**

¹ See *PJM Interconnection, L.L.C.*, 98 FERC ¶ 61,072 (2002), *clarified*, 98 FERC ¶ 61,235 (2002); *PJM Interconnection, L.L.C.*, 100 FERC ¶ 61,088 (2002); *see also* PJM Tariff, Attachments H-11, H-11A.

² *Monongahela Power Co.*, Docket No. ER12-284-000 (Dec. 28, 2011) (unpublished letter order).

1 A. As part of my duties, I regularly evaluate Mon Power's load forecasts and its
 2 generation resources to determine whether sufficient generating capacity is available
 3 to meet projected customer load. Pursuant to W. Va. Code §24-2-19(a) and General
 4 Order No. 184.35 of the Public Service Commission of West Virginia ("WVPSC"),³
 5 in 2015 Mon Power established a process for undertaking a review of its and PE's
 6 capacity and energy needs, and formalized that process in a 2015 Integrated Resource
 7 Plan ("IRP" or the "Plan") that was filed on December 30, 2015 with the WVPSC.⁴
 8 The IRP compared Mon Power's and PE's projected peak demand with Mon Power's
 9 current and planned capacity resources. As Mon Power explained in the IRP:

10 *Objective.* Mon Power's objective in developing the Plan was to
 11 identify the resources necessary to meet [Mon Power's and PE's] future
 12 energy and capacity obligations in a cost effective, prudent, and reliable
 13 manner. Mon Power's options for meeting these future needs consist of
 14 supply-side and demand-side resources and market purchases.⁵

15 The WVPSC accepted the IRP on June 3, 2016.⁶

16 **Q. What were the conclusions reached in the IRP?**

17 A. Mon Power determined in the IRP that it would have a capacity shortfall beginning in
 18 the winter peaking period of 2016 that was projected to exceed 700 MW by 2020 and

³ W.VA. CODE § 24-2-19(a) (2016); Integrated Resource Planning, General Order No. 184.35 (W.V. P.S.C. Mar. 19, 2015).

⁴ Mon Power & PE, 2015 Integrated Resource Plan, Case No. 15-2002-E-IRP (filed Dec. 30, 2015), <http://www.psc.state.wv.us/scripts/WebDocket/ViewDocument.cfm?CaseActivityID=441858&NotType=%27WebDocket%27>. Because Mon Power provides electric service in PE's West Virginia service territory, Mon Power's load and supply forecasts and requirements included PE's West Virginia load.

⁵ *Id.* at 4.

⁶ Monongahela Power Company and The Potomac Edison Company, Case No. 15-2002-E-IRP (W. Va. P.S.C. June 3, 2016).

1 extend to more than 850 MW by 2027.⁷ It found that Mon Power needed significant
2 amounts of generation resources to meet its forecasted demand.

3 **Q. Were there any changes to Mon Power’s load and generation forecast after it**
4 **issued the IRP?**

5 A. Yes. Subsequent to the issuance of the IRP, Mon Power continued to evaluate its
6 generation portfolio based on recent rule changes in the PJM markets, particularly the
7 recently-implemented PJM “Capacity Performance” market design. Under PJM’s
8 Capacity Performance market design, which was approved by FERC in June 2015,
9 generation resources with a capacity obligation that fail to perform when needed to
10 maintain reliability during peak demand periods are subject to significant penalties.⁸
11 PJM began implementing the Capacity Performance market design in PJM’s
12 Reliability Pricing Model (“RPM”) auctions conducted in August 2015 for the 2018-
13 2019 Delivery Year. The Capacity Performance market design will be fully
14 implemented after the May 2017 RPM auction for the 2020-2021 Delivery Year

15 **Q. How did the Capacity Performance market design impact Mon Power’s**
16 **projected capacity need?**

17 A. Mon Power determined that the Capacity Performance market design would have a
18 significant impact on the value of Mon Power’s indirect interest in the Bath County
19 Pumped Storage Project (the “Bath County Project”) located in Warm Springs,
20 Virginia. Mon Power’s interest in the Bath County Project represents 487 MW of
21 capacity. Mon Power concluded that this capacity value would be reduced by

⁷ IRP at 4.

⁸ *PJM Interconnection, L.L.C.*, 151 FERC ¶ 61,208 (2015), *order on reh’g*, 155 FERC ¶ 61,157 (2016), *appeal pending*, D.C. Cir. Case Nos. 16-1234, *et al.*

1 approximately 50% beginning in the 2020-2021 PJM Delivery Year due to certain
2 availability requirements imposed on Capacity Performance resources related to
3 system emergencies.⁹

4 **Q. In addition to the capacity reduction described above, did the location of the**
5 **Bath County Project impact Mon Power's analysis of its projected capacity**
6 **need?**

7 A. Yes. The Bath County Project is located in the PJM Dominion zone, and cannot be
8 readily used under PJM's Capacity Performance rules to replace any Mon Power unit
9 in the PJM APS zone during critical hours nor could the other Mon Power units be
10 used as replacement capacity for the Bath County Project.¹⁰ All of Mon Power's
11 3,700 MW of generation capacity, except for the Bath County Project, is located in
12 PJM's APS zone. In addition, Mon Power's retail load, as well as the retail load of
13 PE, is primarily located within PJM's APS zone. Consequently, Mon Power
14 determined that it may be in the best interest of both Mon Power and PE customers
15 and the companies to seek to sell Mon Power's interest in the Bath County Project,
16 and to seek to acquire additional capacity resources in PJM's APS zone.

17 **Q. How did Mon Power's decision to explore selling its interest in the Bath County**
18 **Project impact the analysis of Mon Power's projected capacity need?**

19 A. As a result of PJM's Capacity Performance market design, Mon Power's related
20 decision to explore selling its indirect interest in the Bath County Project, which sale,
21 if such would move forward, is anticipated to be consummated in 2017, and the
22 projected higher load based on increased economic development, Mon Power updated

⁹ See PJM Manual 18, § 5.4.1.

¹⁰ See *id.*, § 8.9.

1 its load and capacity forecast from the IRP and revised its projected capacity shortfall
2 to approximately 1,005 MW by 2020 and 1,439 MW by 2027.

3 **II. MEETING MON POWER’S PROJECTED CAPACITY NEED THROUGH A**
4 **RESOURCE ACQUISITION**

5 **Q. Why did Mon Power decide to meet its projected need for additional resources**
6 **through an acquisition?**

7 A. Mon Power’s decision to pursue an acquisition of capacity resources was based on
8 the IRP, which concluded that “[t]he lowest [cost] evaluated option to address Mon
9 Power’s needs appears to be the purchase of existing generating facilities. This
10 option would require an agreement between Mon Power and any seller at a price that
11 allows this option to remain the best solution.”¹¹ As a result, Mon Power decided to
12 seek to acquire one or more dispatchable generating resources of approximately 1,300
13 MW of UCAP, and potentially up to 100 MW of demand response (“DR”) resources,
14 within PJM’s APS zone to meets its projected capacity needs.

15 **Q: Why did Mon Power decide to acquire capacity resources that are dispatchable?**

16 A: The PJM Capacity Performance market design includes significant penalties to
17 encourage performance by capacity resources during critical reliability events. The
18 failure to deliver energy during such events – referred to as “Performance Assessment
19 Hours” – can result in penalties, which could amount to more than a resource’s yearly
20 capacity revenue. Moreover, there are no meaningful exceptions that would excuse a
21 capacity resource from such penalties. Therefore, it is critical that Mon Power have
22 the operational flexibility to dispatch its capacity resources to meet these stringent

¹¹ IRP at 57.

1 Capacity Performance requirements. Accordingly, Mon Power decided to acquire
2 fully-dispatchable capacity resources with reliable, year-round fuel supply availability
3 and/or other operational characteristics to enhance reliability and availability.

4 **Q: Why were renewable resources such as wind and solar not considered in the**
5 **RFP?**

6 A: Mon Power evaluated the acquisition of renewable resources but ultimately
7 concluded not to acquire such resources in the RFP. For the reasons I describe above,
8 non-dispatchable resources, such as wind and solar facilities, are considered
9 intermittent in that there is no assurance that these facilities will be available to
10 supply energy during potential Performance Assessment Hours and, hence, these
11 facilities represent operational risk and exposure for Mon Power in meeting its
12 capacity needs under PJM's stringent Capacity Performance market design.
13 Therefore, Mon Power elected not to acquire renewable resources in the RFP.

14 **Q: Are there other reasons why wind and solar resources were not considered**
15 **adequate to satisfy Mon Power's capacity needs?**

16 A: Yes. Wind and solar resources have low capacity factor attribution in the PJM
17 region.¹² Effective January 1, 2017, PJM capacity factors for wind and solar are 13%
18 and 38%, respectively. Accordingly, Mon Power would need to acquire 5,000 to
19 10,000 MW of wind and solar to satisfy the 1,439 MW projected need for 2027,
20 thereby significantly increasing its overall capacity acquisition costs.

¹² PJM, *Class Average Capacity Factors for Wind and Solar Capacity Resources* (Jan. 1, 2017), <http://www.pjm.com/~media/planning/res-adeq/wind-and-solar-class-average-capacity-factors.ashx>.

1 **Q. Why did Mon Power determine that the generating resources would have to be**
2 **located in the APS zone?**

3 A. As I noted above, capacity resources subject to the Capacity Performance market
4 design in PJM are subject to significant penalties if they are unable to operate during
5 critical hours on the system. To minimize this penalty risk, the PJM rules allow a
6 capacity resource owner to “net” performance across multiple units, provided those
7 units are located in the same PJM load zone.¹³ Mon Power’s existing capacity
8 resources representing 3,700 MW of capacity are primarily located in the PJM APS
9 zone, which incorporates parts of West Virginia, Pennsylvania, Maryland and
10 Virginia. For these reasons, Mon Power determined that, to minimize overall
11 Capacity Performance penalty risk, it must acquire capacity resources in the APS
12 zone.

13 **Q. Did Mon Power evaluate whether generating resources that were still under**
14 **development would meet its capacity needs?**

15 A. Yes. Mon Power decided that it would consider projects that are still under
16 development, provided that those projects satisfied certain development milestones
17 (e.g., acquisition of construction permits to demonstrate that they would be available
18 in the 2020/2021 Delivery Year, which corresponds to Mon Power’s needs for
19 capacity). Projects meeting certain development milestones represent comparatively
20 lower project completion risk than do projects in the conceptual or early planning
21 phases.

¹³ PJM Manual 18, Section 8.9.

1 **Q. Did Mon Power consider whether it could meet its capacity need by purchasing**
2 **power from a wholesale seller rather than by purchasing generating resources?**

3 A. Yes. Mon Power evaluated the potential for purchasing capacity through a PPA, but
4 determined that it would be preferable to acquire one or more capacity resources,
5 including generation facilities and DR resources.

6 **Q. Why is the purchase of physical generating resources preferable to the purchase**
7 **of power under a PPA?**

8 A. There are many reasons why owning a physical asset is preferable to purchasing
9 power under a PPA. First, the IRP concluded that “the lowest evaluated option to
10 address Mon Power’s needs appears to be the purchase of existing generating
11 facilities.”¹⁴ Second, owning an asset provides greater control over operations,
12 maintenance, fuel procurement, and capital improvements. Third, in some cases, a
13 plant owner can modify facility operations to better suit market conditions and derive
14 greater economic value from the facility. By contrast, with a PPA arrangement, Mon
15 Power would have little or no control over making efficiency improvements,
16 changing fuels, or other steps to enhance the facility’s performance.

17 **Q. Did Mon Power conclude that it could only meet its future capacity obligations**
18 **through the acquisition of additional generating capacity?**

19 A. No. As noted above, Mon Power also determined that it would seek up to 100 MW
20 of its capacity needs through DR resources, either by purchasing such resources from
21 aggregators or directly from large end-users. Despite including a DR component in
22 the RFP, however, Mon Power did not receive any DR bids. Nevertheless, Mon

¹⁴ IRP at 57.

1 Power may consider alternative arrangements to procuring DR resources as an
2 additional means to satisfy its current and future capacity needs.

3 **Q. How did Mon Power conclude that 100 MW would be the appropriate amount of**
4 **DR resources to seek in the RFP?**

5 A. Mon Power worked with CRA to identify DR resources in the APS zone that have
6 participated in prior PJM RPM auctions. The target, 100 MW, was at the higher-end
7 of what Mon Power believed it could procure from the market based on Mon Power
8 and CRA's identification of DR resources in the APS zone.

9 **Q. Please describe CRA and how they were selected to manage the RFP process.**

10 A. Mon Power retained an independent third party, CRA, to design and administer a
11 transparent, fair and non-discriminatory RFP process, including the solicitation of
12 bids for available capacity resources. Prior to choosing CRA, Mon Power evaluated
13 four separate, independent entities with experience in developing and administering
14 RFPs for electric generation resources. CRA was chosen based on its vast and
15 demonstrated experience, resources, judgment and abilities.

16 **Q. Please describe the RFP.**

17 A. In order to manage its capacity needs and ensure an adequate level of generation
18 supply for its customers, Mon Power issued the RFP seeking to acquire: (i) one or
19 more generating facilities (existing, new or sufficiently in development) amounting to
20 approximately 1,300 MW of UCAP; and (ii) up to 100 MW of DR resources. I will
21 describe certain components of the RFP – in particular, the non-price evaluation
22 criteria – and explain why they were included in the RFP. Robert J. Lee, a Vice
23 President at CRA, is providing testimony in this proceeding regarding CRA's work

1 with Mon Power to develop the RFP, and CRA's fair and non-discriminatory
2 implementation of the RFP, including CRA's communications with bidders and its
3 evaluation of bids.

4 **III. The Evaluation Criteria**

5 **Q. Please describe the objectives considered by Mon Power in designing the**
6 **evaluation criteria reflected in the RFP.**

7 A. Mon Power and CRA designed an RFP with price and non-price evaluation criteria
8 that were crafted to yield capacity resource proposals exhibiting the optimal
9 combination of value, risk, and reliability for Mon Power, its customers, and the State
10 of West Virginia. These evaluation criteria were applied in a balanced, level, and
11 objective manner by CRA while preserving the identity of bidder participants, as
12 described more completely in the testimony of Mr. Lee.

13 **Q. Please describe the price criterion and how it was applied.**

14 A. In order to protect Mon Power's and PE's West Virginia retail customers, Mon Power
15 and CRA designed an RFP that designated price as the most important evaluation
16 criterion. As part of this evaluation, Mon Power obtained an energy forecast from
17 ABB Inc. to provide an independent source for data necessary for modelling of
18 generation resources. This data was used by CRA for portions of their analysis. In
19 applying the price criterion, CRA calculated a net present value of expected customer
20 impact for each proposal, using data regarding energy and capacity markets, fuel
21 prices, and plant performance metrics, to model each proposed generation resource's
22 expected dispatch and cost. This approach permitted CRA to evaluate proposals on a
23 balanced and objective basis.

1 **Q. Please describe the non-price evaluation criteria reflected in the RFP.**

2 A. Mon Power and CRA selected the following non-price criteria for use in the
3 evaluation of proposals submitted in response to the RFP:

4 (i) in-state location and fuel use;

5 (ii) fuel risk;

6 (iii) development risk;

7 (iv) ease of integration; and

8 (v) specific risk factor(s).

9 **Q. Please describe the rationale for including the “in-state location and fuel use”**
10 **criterion.**

11 A. West Virginia law requires the WVPSC to consider and promote the use of in-state
12 fuel and generation benefits in its decisions regarding the procurement of capacity
13 resources.¹⁵ To advance these legislative objectives and provide economic benefits
14 where Mon Power and PE’s customers live, the RFP evaluation process considered
15 the expected use of any West Virginia fuels (*e.g.*, coal and natural gas), labor, taxes,
16 and other in-state resources for the development, construction and operation of the
17 generation facility. Bidders were also requested to describe and provide support for
18 any expected economic benefits to the local community, region, and State of West
19 Virginia, associated with the development, construction, and/or operation of the
20 generation facility.

21 **Q. Please describe the rationale for including the “fuel risk” criterion.**

¹⁵ See W. Va. Code §§ 24-1-1(a)(3), 24-2-1d(a) and (c), and 24-2-1g(a)-(b).

1 A. It is critical that a capacity resource perform reliably and be able to comply with the
2 stringent operating requirements under PJM's Capacity Performance market rules.
3 As a result, the evaluation criteria considered a resource's demonstrated fuel
4 availability throughout the operating year, the reliability of its primary fuel
5 transportation, and whether it had a secondary delivery route and/or on-site storage in
6 the event of temporary disruptions to the primary fuel transportation source.

7 **Q. Please describe the rationale for including the "development risk" criterion.**

8 A. This criterion was established in connection with the consideration of facilities that
9 are still in development. Because Mon Power will commit to performance in the PJM
10 capacity market based on the operating characteristics of the acquired capacity
11 resource, the evaluation criteria considered the risks associated with the development
12 of proposed capacity resources (including significant upgrades to existing facilities)
13 and related contractual commitments, including such matters as budgeting, permitting
14 and regulatory approvals.

15 **Q. Please describe the rationale for the "ease of integration" criterion.**

16 A. Any challenge to integrating a capacity resource into Mon Power's corporate and
17 operational framework can add to operational cost and delay, and can adversely
18 impact system reliability. As a result, the evaluation criteria considered how easily a
19 resource could be integrated into Mon Power's existing systems and corporate
20 framework. For example, the criteria included consideration of the following issues:
21 (i) manufacture and vendor warranty transferability; (ii) fuel and fuel transportation
22 contract flexibility and transferability; (iii) employee integration (union and non-
23 union); (iv) assumption or ability to replace existing contracts (*e.g.*, long-term service

1 agreements, maintenance, etc.); (v) compatibility of control systems; and (vi)
2 integration or cancellation of supply chain and other vendor agreements.

3 **Q. Please describe the rationale for the “specific risk” criterion.**

4 A. Generation facilities, whether existing or in development, may have unique risk
5 factors, including those related to permitting and operations. For example, a facility
6 may be confronting a proceeding for re-licensing that could be protracted, thereby
7 adding to operational uncertainty. Another facility could have an operational history
8 of multiple transfers of ownership, thereby indicating that operational and
9 maintenance practices may have been compromised. In order to protect Mon Power’s
10 customers and enhance the value of the acquired facility, bidders were required to
11 provide a description of any such specific risks and, as important, the bidder’s
12 proposal for mitigating any such risk.

13 **IV. THE RESULTS OF THE RFP**

14 **Q. After evaluating the proposals and applying the evaluation criteria, who did**
15 **CRA select as the winning bidder?**

16 A. CRA selected AE Supply’s proposal to sell the Pleasants Facility to Mon Power for a
17 purchase price of approximately \$195 million, [REDACTED] necessary to
18 procure similar capacity from the other bidders. Additionally, the winning bidder
19 scored highest on the non-price factors. The approximate 1,159 MW facility consists
20 of two coal fired units that are equipped with state-of-the-art SO₂-removing
21 scrubbers, NO_x-reducing selective catalytic reactors, and a sodium-bisulfate injection
22 system. The by-product produced by the scrubbing system is converted to wallboard-
23 quality gypsum.

1 **Q: How did CRA document its recommendation?**

2 A: On February 27, 2017, CRA provided Mon Power with an Opinion Letter. Mr. Lee
3 will describe the Opinion Letter in his testimony.

4 **Q: Please explain your review of the generation acquisition bids.**

5 A: I have reviewed all three of the conforming bids to evaluate whether the conclusions
6 reached by CRA were appropriate. My review showed the winning bidder did indeed
7 have a much lower purchase price, very favorable positions on non-price factors, low
8 priced and readily-available West Virginia-sourced fuel, and operational
9 characteristics typical of similar type plants. Additionally, the winning bidder is
10 environmentally compliant and complies with PJM's Capacity Performance
11 guidelines. While the remaining bidders may be quality plants as well, their cost per
12 MW was substantially higher.

13 **Q: Was Mon Power obligated to pursue a transaction with the winning proposal in**
14 **the Capacity RFP?**

15 A. No, it was not. No matter what the results of the RFP, Mon Power was free to accept
16 or reject any bid. However, Mon Power has concluded that at the price offered,
17 acquisition of the Pleasants Facility is cost-effective from the perspective of Mon
18 Power and PE's customers. I agreed with the conclusions reached by CRA, and
19 verified the Pleasant Facility's condition with an independent engineering review, and
20 sought and obtained management approval to award those bids subject to the required
21 regulatory approvals by the WVPSC and this Commission.

22 **Q. How will the Transaction be financed?**

1 A. Mon Power has various options for financing the Transaction. Potential financing
2 options include the use of a combination of long-term debt, equity from Mon Power's
3 parent, FirstEnergy Corp., or directly from Mon Power's cash sources and/or short-
4 term debt. At the effective date of the Transaction, Mon Power could also potentially
5 assume a \$142 million pollution control note secured by certain Pleasants assets.
6 Mon Power will, if necessary, file a separate application under Section 204 of the
7 Federal Power Act for financing authority.

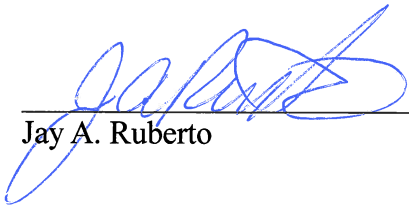
8 **V. CONCLUSION**

9 **Q. Does this conclude your testimony?**

10 A. Yes it does.

VERIFICATION OF DIRECT TESTIMONY

My name is Jay A. Ruberto and my business address is 5001 NASA Boulevard, Fairmont, West Virginia 26554. I am the Director, Regulated Generation and Dispatch, for FirstEnergy Service Company. I verify under penalty of perjury that the foregoing Direct Testimony is true and correct to the best of my knowledge, information, and belief.


Jay A. Ruberto

Subscribed and sworn to me
On this 6 day of March, 2017


Notary Public

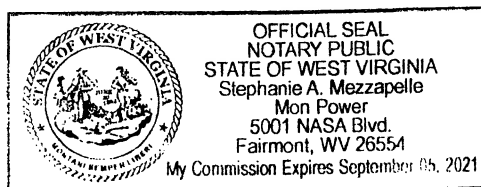


EXHIBIT JAR-1

EXHIBIT JAR-1

- *Potomac-Appalachian Transmission Highline, LLC and PJM Interconnection, L.L.C.*,
Docket Nos. ER09-1256 and ER12-2708

ATTACHMENT 3

DIRECT TESTIMONY OF ROBERT J. LEE

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Monongahela Power Company)	
and)	Docket No. EC17-____-000
Allegheny Energy Supply Company, LLC)	

PREPARED DIRECT TESTIMONY OF ROBERT J. LEE

1 **Q. Please state your name, title and business address.**

2 A. My name is Robert J. Lee. I am a Vice President in the Auctions and Competitive
3 Bidding Practice at Charles Rivers Associates (“CRA”), which is a consulting firm
4 located at 200 Clarendon Street, Boston, Massachusetts, 02116. Founded in 1965,
5 CRA provides economic and financial expertise and management consulting services
6 to businesses, law firms, accounting firms, and governments. My business address is
7 200 Clarendon Street, T-9, Boston, Massachusetts 02116.

8 **Q. What are your qualifications and experience?**

9 A. As a Vice President in CRA’s Auctions and Competitive Biddings division, I help
10 clients design and administer transactions in regulated and unregulated industries,
11 including the power sector. Since 2006, my focus has been on the design and
12 implementation of competitive sales and procurement processes. The process
13 frameworks can range from requests for proposals (“RFPs”) to formal auctions. In
14 addition to structuring these transactions, I oversee and manage the process as an
15 Independent Monitor/RFP Manager. Prior to joining CRA in 2001, my work focused
16 on the domestic energy sector, particularly the power sector, and I continue to do a
17 wide range of consulting work in that area. Prior to entering consulting in 1996, I

1 earned a Master of Science in Industrial Administration from Carnegie Mellon
2 University in Pittsburgh.

3 **Q. Have you previously testified before the Federal Energy Regulatory Commission**
4 **(“FERC” or the “Commission”)?**

5 A. Yes, I have. A list of the FERC dockets in which I have submitted testimony is
6 attached as Exhibit RJL-1.

7 **Q. What is the purpose of your testimony?**

8 A. I am testifying on behalf of Monongahela Power Company (“Mon Power”) in support
9 of its request for FERC’s authorization, pursuant to Section 203 of the Federal Power
10 Act (“FPA”), to acquire the Pleasants Power Station, a coal-fired electric generating
11 facility located in Willow Island, West Virginia that is approximately 1,159 MW of
12 Unforced Capacity (“UCAP”) (the “Pleasants Facility”), from its affiliate, Allegheny
13 Energy Supply Company, LLC (“AE Supply”) (the “Proposed Transaction”). The
14 purpose of my testimony is twofold. First, I will describe my role in the RFP process
15 that led to the Proposed Transaction. Second, I will describe how the RFP process
16 met FERC’s enunciated “Allegheny Principles” for a fair transaction without affiliate
17 preference.

18 **Q. Does CRA have experience in structuring and administering similar RFPs?**

19 A. Yes. CRA has served as an independent RFP manager to promote a fair, open, and
20 non-discriminatory RFP processes for other structured sales and procurement
21 engagements in the electric power sector. During my tenure in CRA’s Auctions and
22 Competitive Bidding practice, CRA has independently monitored and administered

1 over 35 competitive procurements on behalf of electric utilities and hundreds for our
2 clients across all industries.

3 **Q. Please describe your role in the RFP process that led to the Proposed**
4 **Transaction?**

5 A. CRA served as RFP advisor and manager through all stages of the RFP process,
6 including the design, administration, evaluation and conclusion stages.

7 I. THE RFP DESIGN STAGE

8 **Q. Please describe the design stage of the RFP process.**

9 A. The RFP design stage involved CRA working with Mon Power on the steps that led
10 to the issuance of an RFP:

11 a) *Defined Objectives and Requirements:* CRA worked with Mon Power to
12 define the RFP process objectives and requirements. Mon Power's objective
13 was to ensure an adequate and reliable capacity supply for its customers and
14 the customers of its affiliate, The Potomac Edison Company ("PE").
15 Together, CRA and Mon Power determined that customer needs would be
16 best served through the acquisition of up to 1,300 MW of UCAP of
17 dispatchable, physical capacity resources that met established industry-wide
18 reliability and performance criteria for electric generation facilities combined
19 with up to 100 MW of demand response ("DR") resources. We concluded
20 that potential facilities could be physically located inside and outside of Mon
21 Power's service territory, but should be located inside the Allegheny Power
22 Systems ("APS") zone in the PJM-region;

1 b) *Prepared RFP Documentation*: CRA worked with Mon Power to prepare the
2 RFP Document, the data requirements and a proposal input template, the
3 Asset Purchase Agreement, Notice of Intent, Non-Disclosure Agreement, and
4 Pre-Qualification Application, as well as an RFP Timetable with deadlines
5 and requirements for participation in the RFP (together, the “RFP
6 Documents”);

7 c) *Developed the Evaluation Criteria*: CRA worked with Mon Power to develop
8 the evaluation criteria which included a Net Present Value of revenue
9 requirements model along with certain other scoring criteria; and

10 d) *Identified Potentially Interested Parties*: CRA identified resources that met
11 Mon Power’s stated needs so that those resources could be contacted after
12 RFP publication.

13 II. THE RFP ADMINISTRATION STAGE

14 **Q. Please describe the administration stage of the RFP process.**

15 A. Once the RFP was designed and the documents were prepared, the process moved to
16 the administration stage, which involved publication of the RFP and all
17 communication with potential bidders. CRA handled all aspects of RFP
18 administration including the following steps:

19 a) RFP Information Publication: CRA was the sole developer and manager of the
20 website (<http://monpower-rfp.com>) that published the RFP and all RFP-
21 related information, including the RFP Documents, for access by any
22 interested party;

- 1 b) RFP “Help Line” Administrator: CRA fielded all RFP related questions from
2 potential bidders through the CRA controlled email address ([MonPower-
3 RFPManager@crai.com](mailto:MonPower-RFPManager@crai.com)) and the website listed above. CRA compiled and
4 scrubbed all questions of identifying information before forwarding to Mon
5 Power. Mon Power drafted each response, which CRA reviewed and posted,
6 together with the question and date, to the website for all bidders to consider;
7 c) Bidder Outreach: For those resources CRA identified as potentially interested
8 participants in the design stage, CRA notified their representatives that the
9 RFP had been issued and directed them to the RFP website for more
10 information; and
11 d) Bidder Pre-Qualification Screening: CRA reviewed and screened all
12 submissions to ensure they conformed to the defined pre-qualification and
13 content requirements available on the RFP website.

14 III. THE RFP EVALUATION STAGE

15 **Q. Please describe the evaluation stage of the RFP process.**

16 A. CRA received three-conforming bid proposals from pre-qualified bidders. After the
17 conforming bids were received, the RFP process moved to the evaluation stage.
18 There, CRA applied the RFP’s pre-determined evaluation criteria in a consistent and
19 objective manner. Both price and non-price criteria were considered in the bid
20 evaluation, and were applied to the conforming bids received, and CRA conducted
21 blind-evaluation and evaluated the bids using the predetermined criteria. Mr. Jay A.
22 Ruberto describes the evaluation criteria in his Prepared Direct Testimony in this
23 proceeding

1 IV. THE RFP CONCLUSION STAGE

2 **Q. Please describe the conclusion stage of the RFP process.**

3 A. At the conclusion of the RFP process, CRA issued an Opinion Letter to Mon Power
4 to notify Mon Power of the outcome of the RFP and the bid evaluations. I provide
5 the Opinion Letter, which is attached to my testimony at Exhibit RJL-2.

6 **Q. What was the overall conclusion in the Opinion Letter?**

7 A. The Opinion Letter concluded that, based on CRA's analysis of the three-conforming
8 bids, the winner of the RFP was Pleasants Power Station, located in Willow Island,
9 West Virginia, and owned by AE Supply.¹ The Opinion Letter also states that all
10 stages of the RFP process were consistent with fair and competitive RFP, the
11 Allegheny Principles (which I define below), the application of which ensured that no
12 affiliate of Mon Power was given an undue advantage or preference in the RFP.
13 Finally, the Opinion Letter also reflects my conclusion that the Proposed Transaction
14 is consistent with the "effect on competition" requirement under Section 203 of the
15 FPA.

16 **Q. You stated that the second purpose of your testimony was to confirm that the**
17 **RFP satisfied the Allegheny Principles. What are those principles?**

18 A. In a 2004 order, FERC described the four principles it would use to evaluate an RFP
19 process and determine whether an affiliate received undue advantage or preference.
20 *See Allegheny Energy Supply Co., LLC*, 108 FERC ¶61,082 at P 22 (2004). The four
21 principles for conducting a fair affiliate transaction are: transparency, definition,
22 evaluation and oversight (collectively, the "Allegheny Principles"). As noted, the

¹ Information regarding specific bid proposals, as well as CRA's analysis related to those proposals can be found in the "non-public" version of the Opinion Letter.

1 RFP process and its outcome comported with the Allegheny Principles, and my
2 testimony below will explain how the RFP process satisfied each Allegheny
3 Principle.

4 **Q. Do you have any experience applying the Allegheny Principles to an RFP**
5 **process?**

6 A. Yes, I have managed numerous competitive solicitation processes in both FERC and
7 state jurisdictional matters, including an asset acquisition, open season processes for
8 allocating transmission capacity, and state “provider of last resort” wholesale power
9 procurement auctions. These competitive solicitation processes generally are
10 designed and implemented to comply or be consistent with the Commission’s
11 Edgar/Allegheny/Ameren requirements (i.e., transparency, product definition,
12 evaluation and oversight). Speaking to generation procurement, in 2015, I worked
13 with DTE Electric Company to develop and administer a RFP for capacity. FERC
14 issued an order finding that the DTE RFP was consistent with the Commission’s
15 guidance on cross-subsidization and found no affiliate preference.²

16 **Q. Please describe the Allegheny Principle of Transparency.**

17 A. The Allegheny Principle of Transparency requires an RFP to be open and fair. In a
18 transparent RFP, all parties should receive all RFP related information at the same
19 time. No party – particularly an affiliate – should ever have an informational
20 advantage. In addition, to satisfy this principle, the RFP should also be designed to
21 encourage participation from any interested party.

² *DTE Electric Company, et al.*, 152 FERC ¶ 61,036 (2015).

1 **Q. Did the RFP process that led to the Proposed Transaction meet the**
2 **Transparency Principle?**

3 A. Yes, the Proposed Transaction was the result of a fair and open RFP process. CRA
4 worked with Mon Power to design the RFP to ensure meaningful participation by all
5 interested parties and eliminate characteristics that might improperly give an
6 advantage or preference to an affiliate. The following characteristics and actions
7 illustrate how the RFP adhered to the Transparency Principle:

8 a) Independent Evaluator as Point of Contact: Bidders were instructed to avoid
9 direct contact with Mon Power and CRA and to submit all RFP related
10 questions through the CRA controlled RFP website or RFP email address;

11 b) Equal Access to Information: All RFP Documents and RFP related
12 information were available only at <http://monpower-rfp.com/> which was
13 developed and administered solely by CRA;

14 c) Non-Discriminatory Pre-Qualification Requirements: All bidders were
15 required to submit pre-qualification documents to determine their fitness to
16 participate in the process. Specifically, the pre-qualification requirements
17 were focused on ensuring that potential bidders owned the generation facility
18 they intended to offer, and to establish credit and financial information. CRA
19 designed the pre-qualification documents in a standardized manner to
20 minimize the burden for potential bidders. CRA approved all parties that
21 submitted pre-qualification documents to submit a Proposal; and

22 d) Open and Inclusive Procedure: Mon Power issued a press release the same
23 day it issued the RFP and directed all interested parties to the RFP website and

1 pre-qualification information requirements.³ Additionally, bid fee and
2 collateral requirements were kept to a minimum.

3 **Q. Please describe the Allegheny Principle of Definition.**

4 A. The Allegheny Principle of Definition requires a clear and nondiscriminatory
5 description of the desired product or products. Consistency with this principle
6 requires an RFP to state all relevant aspects of the product or products sought.

7 **Q. Did the RFP process that led to the Proposed Transaction meet the Allegheny**
8 **Principle of Definition?**

9 A. Yes, the RFP process met the Allegheny Principle of Definition. CRA worked with
10 Mon Power to precisely define the RFP product requirements, which included
11 specifics regarding capacity, desired plant technology, service territory, facility
12 location and transmission requirements. Mon Power sought to procure ownership of
13 a planned or existing dispatchable generation facility or facilities, located within the
14 APS zone of the PJM region, and amounting to approximately 1,300 MW of UCAP
15 of generation capacity, combined with up to 100 MW of DR resources.

³ See Press Release, FirstEnergy, Monongahela Power Company, Mon Power Issues Requests for Proposals to Secure Generation Capacity for West Virginia Service Area and Solicits Bids for Sale of its Ownership Stake in Bath County Pumped Storage Project (Dec. 16, 2016), https://www.firstenergycorp.com/newsroom/news_releases/mon-power-issues-request-for-proposals-to-secure-generation-capacity.html.

1 **Q. What is the Allegheny Principle of Evaluation?**

2 A. The Allegheny Principle of Evaluation concerns bid assessment and requires an RFP
3 to inform potential bidders of the specific price and non-price criteria that will be
4 used to evaluate their bid, and to evaluate all bids in using the same, pre-determined
5 criteria outlined in the RFP. The relative importance of each price and non-price
6 criteria item must also be made clear.

7 **Q. Did the process that led to the Proposed Transaction meet the Allegheny**
8 **Principle of Evaluation?**

9 A. Yes, the process was consistent with the Allegheny Principle of Evaluation. The RFP
10 contained several pages of bid pre-qualification requirements. Please see Section 4.1
11 of the RFP Document attached as Exhibit RJL-3. In addition, the RFP extensively
12 described the price and non-price criteria by which all pre-qualified bids would be
13 evaluated, as well as their relative importance. (See RFP Section 4.2). CRA
14 evaluated the bids using an excel-based, levelized-cost tool, which was designed to
15 facilitate an objective evaluation framework that could be applied equally to all bids.
16 At no point did CRA deviate from the pre-defined evaluation criteria, and bidder
17 confidentiality was maintained at all times.

18 **Q. What is the Allegheny Principle of Oversight?**

19 A. The Allegheny Principle of Oversight concerns the role of an independent third party,
20 in essence, a party whose decision making cannot be influenced by the RFP issuer, its
21 affiliates, or any potential bidder. Under the Allegheny Principle of Oversight, such a
22 third-party should meet minimum standards. It should have no financial interest in
23 any of the potential bidders, including the affiliate, or in the outcome of the process.

1 The independent third party should neither own nor operate facilities that participate
2 in the market affected by the RFP. Lastly, the independent third party should be able
3 to determine whether an RFP process is transparent and fair, and that an RFP issuer's
4 decision was free from the influence of any affiliate relationships.

5 **Q. Did the RFP process that led to the Proposed Transaction meet the Allegheny**
6 **Principle of Oversight?**

7 A. Yes. The process that led to the Proposed Transaction met the Allegheny Principle of
8 Oversight. CRA is an independent consulting firm with no financial interest in Mon
9 Power, its affiliates, or any of the bidders. CRA neither owns nor operates any
10 facilities operating in the relevant market (namely, PJM), nor can CRA indirectly
11 benefit from the Proposed Transaction. As the RFP Manager, I had a full overview of
12 all details of the entire RFP process. All information between potential bidders and
13 Mon Power went through CRA.

14 **Q. Does this conclude your testimony?**

15 A. Yes, it does.

VERIFICATION OF DIRECT TESTIMONY

My name is Robert J. Lee and my business address is 200 Clarendon Street, Boston, Massachusetts, 02116. I am a Vice President in the Auctions and Competitive Bidding Practice at Charles Rivers Associates. I verify under penalty of perjury that the foregoing Direct Testimony is true and correct to the best of my knowledge, information, and belief.



Robert J. Lee

Subscribed and sworn to me
On this 6 day of March, 2017


Notary Public

EXHIBIT RJL-1

EXHIBIT RJL-1

- *DTE Electric Company, et al.*, Docket No. EC15-138
- *Dayton Power and Light Company, et al.*, Docket No. ER16-2569
- *AES Ohio Generation, LLC*, Docket No. ER16-2570

EXHIBIT RJL-2

PRIVILEGED AND CONFIDENTIAL INFORMATION REMOVED



DELIVERED VIA EMAIL

CRA No. D23038-00

February 27, 2017

Jay Ruberto
Director, Regulated Generation & Dispatch
FirstEnergy Service Company
5001 NASA Boulevard
Fairmont, WV 26554
(304) 534-7472

Re: Monongahela Power Company's Request for Proposals - Power Supply Generation Facilities and/or Demand Response

Dear Mr. Ruberto:

In the fourth quarter of 2016, Monongahela Power ("Mon Power") retained CRA International d/b/a Charles River Associates, Inc. ("CRA") to assist in the design, administration and bid evaluation of a Request for Proposals ("RFP") process. The RFP was used to solicit bids for the acquisition to cover an identified capacity shortfall of approximately 1,045 MW by 2020 that rises to 1,400 MW by 2027. Through the RFP, Mon Power sought to satisfy this capacity shortfall through a combination of an approximately 1,300 MW (UCAP) of generation capacity and up to 100 MW of demand resources. CRA served as an independent third party managing the RFP process ("RFP Manager").

The RFP was issued on December 16, 2016, with a Notice of Intent, Non-disclosure Agreement and Pre-Qualification Application due on December 23, 2016. Written, binding bid proposals ("Proposals") were due on February 3, 2017. Two forms of proposals were accepted:

1. The sale of a facility or facilities satisfying the requirements described in the RFP
2. Demand Response (DR) offers for up to 100 MW

CRA reviewed all Proposals that met pre-determined qualifying criteria set forth in the RFP documentation and evaluated each based on certain pre-specified evaluation criteria. For asset proposals, the evaluation considered:

1. Estimated NPV of expected market revenues and costs over the 2018 to 2032 period
2. Fuel sourcing and consumption from West Virginia

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3. Tax or PILOT payments within the state of West Virginia
4. Fuel supply security
5. Commercial operation date risk for projects currently in development
6. Integration risk
7. Other potential project specific risk factors

Up to 100 MW of DR could be awarded to qualifying proposals. DR proposals that met certain qualification requirements would be rank ordered based on cost and the lowest 100 MW could be selected as winning proposals.

Mon Power was not directly involved in the evaluation of Proposals nor was Mon Power aware of bidder identities as part of the RFP FAQ process. During the evaluation, Mon Power was only made generally aware of the progress and/or any issues encountered during the review. Because of Mon Power's limited involvement, CRA is issuing this Opinion Letter to provide a final review of the RFP and its execution and to confirm that the RFP was performed in a transparent, fair and nondiscriminatory manner and no Mon Power affiliate was given an undue advantage or preference in the RFP.

CRA is an economics and management consulting firm, founded in 1964, and headquartered in Boston, Massachusetts. CRA has worked on behalf of a wide range of stakeholders in the design, management and execution of structured sales and procurement processes executed both through formal auctions and RFPs. CRA clients in these engagements have included regulated utilities, government agencies, state and federal regulators as well as cooperatives and private corporations. CRA has directly managed or monitored structured processes that have resulted in over \$25 billion worth of transactions in both the United States and abroad. CRA has extensive experience in managing default service procurement processes for utilities in the Midwest and mid-Atlantic United States and currently manages the default service procurement processes for FirstEnergy's Ohio Utilities, FirstEnergy's Pennsylvania Utilities, Duke Energy Ohio, Duquesne Light Company and The Dayton Power & Light Company. CRA advises energy sector clients on asset valuation for the purposes of acquisition and divestiture and senior members of CRA's team have testified as experts on sales and procurement process design before regulatory agencies and in civil litigation.

OVERVIEW OF THE RFP PROCESS

Prior to issuing the RFP on December 16, 2016, CRA worked with the Mon Power team to define the process objectives and requirements. Mon Power advised CRA that in order to ensure reliable, adequate

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capacity supplies to meet customer needs, Mon Power desired to acquire dispatchable, physical resources that, at a minimum, would meet established industry-wide reliability and performance criteria for electric generation facilities. Through this RFP, Mon Power solicited Proposals for the purchase and sale of existing electric generating assets or assets in development that were physically located within APS's service territory within PJM. CRA worked with Mon Power to prepare the RFP documentation and ensure the product requested was clearly defined and the evaluation criteria clearly specified in the RFP documentation, which was available to all interested parties via the RFP Information Website.

CRA managed the outreach to potential bidders interested in the process. CRA identified 20 existing assets and 8 in-development projects located within APS service territory that met Mon Power's stated needs. Representatives from each of these facilities plus 6 demand resource providers were contacted via electronic mail notices and phone calls, informing them of the RFP and relevant due dates. CRA maintained a public Information Website that included all key documents related to the RFP process. Through that Information Website, interested parties could submit questions and comments related to the process, the documents or the RFP requirements. In addition, FirstEnergy published a press release related to this RFP on its website on December 16, 2016. All interested parties were allowed to submit Proposals in the RFP.

Under the RFP, Mon Power affiliates were invited to submit Proposals on the same basis and under the same conditions as unaffiliated bidders. CRA and Mon Power agreed to a number of process safeguards that ensured all Proposals would be reviewed on a fair and equitable basis regardless of their affiliate status. These safeguards are further described below with respect to CRA's role in the Mon Power RFP.

Ultimately, CRA approved all pre-qualification applications submitted and notified the applicants. Regarding bids, CRA received three conforming bids for generation facilities, two non-conforming bids for power purchase agreements, and no bids for Demand Resources. After the Proposal deadline, CRA evaluated the economics and other scoring considerations related to each Proposals independently from Mon Power or its affiliates. CRA reserved the right, in its sole and exclusive discretion, to reject any and all Proposals on the grounds that such Proposal did not conform to the terms and conditions of the RFP or on the grounds that the bidder did not comply with provisions of the RFP.

After the Proposals were received, CRA as the RFP Manager:

1. Reviewed all Proposals and screened the responses to ensure they conformed with all response requirements;

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2. Conducted follow up conference calls with representatives of each company submitting a conforming Proposal to talk through issues with the information provided.
3. Evaluated all conforming Proposals according to the pre-specified criteria as outlined in Sections 4.2 and 5.5 of the RFP document;
4. Managed bidder communication and outreach; and
5. Confirmed the winning Proposal.

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ROLE OF CRA

CRA was retained by Mon Power to design, manage and oversee the RFP process. As the independent RFP Manager, CRA drew from prior experience in other structured sales and procurement engagements to ensure that the Mon Power RFP would promote a fair, open, and non-discriminatory process. CRA also took into account the guidelines set forth by the Federal Energy Regulatory Commission (“FERC” or “Commission”) for evaluating whether an RFP satisfies the underlying principle that no affiliate should receive undue preference during any stage of the RFP.¹ The FERC guidelines are as follows:

1. **Transparency**: the competitive solicitation process should be open and fair;
2. **Definition**: the product or products sought through the solicitation should be precisely defined;
3. **Evaluation**: standardized evaluation criteria applied equally to all bids and bidders; and
4. **Oversight**: an independent third-party should design the solicitation, administer bidding, and evaluate bids prior to the company’s selection.

CRA considered these four guidelines during the design, administration, and evaluation of Mon Power’s RFP as discussed below. For the reasons described herein, the RFP was performed in a transparent, fair and nondiscriminatory manner and no Mon Power affiliate was given an undue advantage or preference in the RFP.

Transparency

The underlying transparency principle is that the competitive solicitation should be open and fair. In the design and implementation of the RFP, many decisions were made to encourage participation and ensure that affiliate Proposals were not given any undue advantage. Specific ways in which this RFP was open and fair include the following design characteristics:

1. **Equal Access to Information**: All parties had equal access to information related to the RFP via the RFP Information Website and all interested parties were allowed to submit Proposals. The RFP Information website (www.monpower-rfp.com) was developed and maintained by CRA, and included the RFP and all of its Appendices, forms, and other materials. The RFP and related forms were made available to all potential bidders at the same time via the website and CRA’s outreach. Parties were informed of how to contact the RFP Manager and had the option to submit inquiries by email or through

¹ *Allegheny Energy Supply Co. LLC*, 108 FERC ¶ 61,082 (2004) (*Allegheny*).

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a form on the Information Website. All communications about the RFP with interested parties occurred through CRA and the RFP Information Website. Inquiries received throughout the duration of the RFP were addressed via an FAQ process framework that allowed for a timely review and dispatch of any inquiry received while maintaining the confidentiality of the party that submitted any inquiry. For questions that required Mon Power's assistance, the questions were sent through the RFP Manager, who first removed any and all information that could be used to identify the questioner, and only then passed the data request to Mon Power. All questions and answers either were posted on the Website for all parties to review (without identifying the inquirer) or were answered via email if the information was already available on the Information Website, in the RFP documents, or not related to all bidders.

2. Low Barriers to Entry: CRA knows of no barriers to responding to the RFP. All potential bidders submitting pre-qualification documents were accepted as pre-qualified bidders. CRA created standardized response templates to reduce the level of effort associated with generating an RFP response and the information requested from respondents was consistent with standard industry practice. No other potential bidders expressed any concern about the requirements or process related to submitting a proposal.
3. Non-discriminatory Pre-Qualification Requirements: All bidders were required to provide the same information and make the same certifications in the Pre-Qualification Application and in the Non-Disclosure Agreement ("NDA"). The pre-qualification information requirements were minimal, focused on asset ownership and credit information.
4. Non-discriminatory Credit Requirements: Although all bidders were required to submit credit ratings and financial information as part of the Pre-Qualification Application, there were no minimum credit requirements for submitting a Proposal.
5. Non-discriminatory review of Asset Purchase Terms and Conditions: The RFP contained a proposed form of Asset Purchase Agreement ("APA"). Bidders were allowed to submit a "mark-up" of the APA containing any comments proposed for consideration as part of a bidder's Proposal. Any proposed redline changes were to be received by CRA, redacted for any identifying information, and sent to Mon Power for consideration so that any rejections or approvals were made on a non-discriminatory basis.
6. Independent Evaluation: The RFP Manager determined which bidders satisfied the qualification requirements, evaluated the economics of each Proposal using a consistent set of assumptions and determined which Proposals were winning Proposals under the process described in Sections 4.2 and 5.5 of the RFP.

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These efforts promoted an open, transparent, and non-discriminatory process for all bidders.

Definition

The second criteria under the FERC guidelines is that the product sought through the RFP should be precisely defined in a manner that is clear and non-discriminatory, including the specifications of the desired capacity, fuel type, plant technology, and transmission requirements. In Mon Power's RFP, the product was clearly defined in Section 1.2 of the RFP Document:

"Through this RFP Mon Power seeks to satisfy this capacity shortfall through a combination of an approximately 1,300 MW (UCAP) of generation capacity and up to 100 MW of demand resources."

"In order to manage its capacity needs and ensure an adequate level of reliable generation supply for its customers, Mon Power issued this RFP to:

1. acquire a generation facility or facilities that, at a minimum, meet established industry-wide reliability and performance criteria, or certain developmental requirements for new or planned electric generation facilities
2. acquire demand resources to satisfy a portion of the identified future capacity needs."

Further details regarding the requested products were provided in Sections 4 and 5 of the RFP. In addition to clearly defined product terms, the RFP process and the evaluation considerations were clearly documented and made available to all interested parties in the RFP document; Bidders had full knowledge of the desired products, the process through which they could submit Proposals and criteria by which Proposals would be evaluated. Bidders had the ability to ask clarifying questions if needed through the FAQ process on the RFP Information Website, and any such questions were responded to.

Evaluation

The third Commission guideline is that the evaluation criteria should be standardized and applied to all bidders equally. The RFP should also clearly specify the price and non-price criteria and the relative importance of each criterion under which Proposals will be evaluated in the decision making process.

1. Interested parties were pre-qualified as Bidders before they could submit Proposals, reducing the need to evaluate Proposals based on those non-price factors.

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2. The pre-qualification criteria were established in advance of the RFP release and such standards were made available to all interested parties via the Mon Power RFP Information Website.
3. The Evaluation Criteria were included in the RFP document and were made available to all interested parties on the RFP Information Website.
4. The actual evaluation of Proposals received was performed consistent with the standards and process defined in advance of issuing the RFP on December 16, 2016. There were no instances or issues that required CRA to deviate from the pre-defined evaluation criteria and bidder confidentiality was maintained at all times throughout the evaluation process. In two separate instances a bidder submitted non-conforming bids for long-term Power Purchase Agreements, and both were disqualified.
5. Proposals were evaluated by CRA through the use of an excel-based tool. The design of this tool was intended to facilitate an objective evaluation framework that could be applied equally across all Proposals received, consistent with the Evaluation Criteria.

Oversight

The Commission suggests that the RFP process be overseen by an independent third party. The independent third party should oversee the design, administration, evaluation of the process, and make a determination that the RFP process is transparent, fair, and not influenced by any affiliate relationships.

1. The RFP process was monitored for openness, fairness, transparency, and competitiveness by CRA as the independent RFP Manager. CRA oversaw all phases of the RFP, including design, communications with interested parties, bidding activities, and evaluation of Proposals.
2. CRA is not affiliated with Monongahela Power or any Mon Power affiliate and has no financial interest in any of the potential bidders, or in the outcome of the RFP. CRA does not own any generating facilities and cannot indirectly benefit from the transaction or the facility's operation.
3. The process was executed consistent with all pre-determined evaluation criteria and the Proposals received in response to the RFP were thoroughly reviewed by CRA prior to presenting the results to Mon Power for advancement to the detailed negotiation phase.

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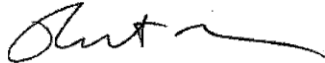
CONCLUSION

CRA recommends that Mon Power designate the Allegheny Energy Supply Company's Pleasants facility located in Pleasants, West Virginia the winning generating facility bid and advance that proposal to the detailed negotiation stage. There were no qualifying or non-qualifying bids for demand resources submitted in association with this RFP and therefore there is no recommended winner in that portion of the process. Through this Opinion Letter, CRA confirms that the process used to solicit and evaluate Proposals was executed consistent with the process as defined and envisioned by CRA and Mon Power at the outset. In CRA's opinion, the RFP was performed in a transparent, fair and nondiscriminatory manner and no Mon Power affiliate was given an undue advantage or preference in the RFP.

Please do not hesitate to contact me should you have any questions.

Sincerely,

Charles River Associates



Robert Lee
Vice President

cc: Dave Hunger, Charles River Associates

Exhibits:

1. List of Pre-Qualified Bidders (generation and DR)
2. Information on Conforming Bids
3. Information on Non-Conforming Bids

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EXHIBIT 1

List of Pre-Qualified Bidders

Table 1.1: Summary of Pre-Qualified Bidders

Number of Pre-Qualified Existing Generation Facilities	3
Number of Pre-Qualified Planned/ New Generation Facilities	6
Number of Pre-Qualified Demand Resources	2
Total Number of Pre-Qualified Bidders	11

Table 1.2: Pre-Qualified Demand Resources

██████████	██████████
██████████	██████████
██	██████████

Table 1.3: Pre-Qualified Generation Facilities

Bidder Name	Facility Name	Facility Type	Facility Location (State)
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]



EXHIBIT 2

Summary of Confirming Proposals

[REDACTED]

[REDACTED]

² Proposals were evaluated in accordance with the Non-Cost Factors outlined in Section 4.2.4 of the RFP, including: (i) Generation Facility Unit Location; (ii) Generation Facility Fuel Usage; (iii) Fuel Risk; (iv) Development, Permitting, and Approval Risks; (v) Ease of Integration; and (vi) Additional Proposal-Specific Risk Factors.

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EXHIBIT 3

Summary of Non-Conforming Proposals¹

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[1] Note that Non-Confirming, tolling agreement bids did not include a full, proposed Power Purchase Agreement ("PPA"). Without the full PPA it is impossible to perform a NPV assessment. Costs in the above table are illustrative based on the limited terms and conditions included in the proposals.

EXHIBIT RJL-3

Monongahela Power Company

REQUEST FOR PROPOSALS

for

Power Supply Generation Facilities and/or Demand Resources

Issued:

December 16, 2016

Proposals Due:

February 3, 2017, 5:00PM EPT

Web Address: www.MonPower-RFP.com

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Notice of Intent.....Appendix A

Non-Disclosure Agreement.....Appendix B

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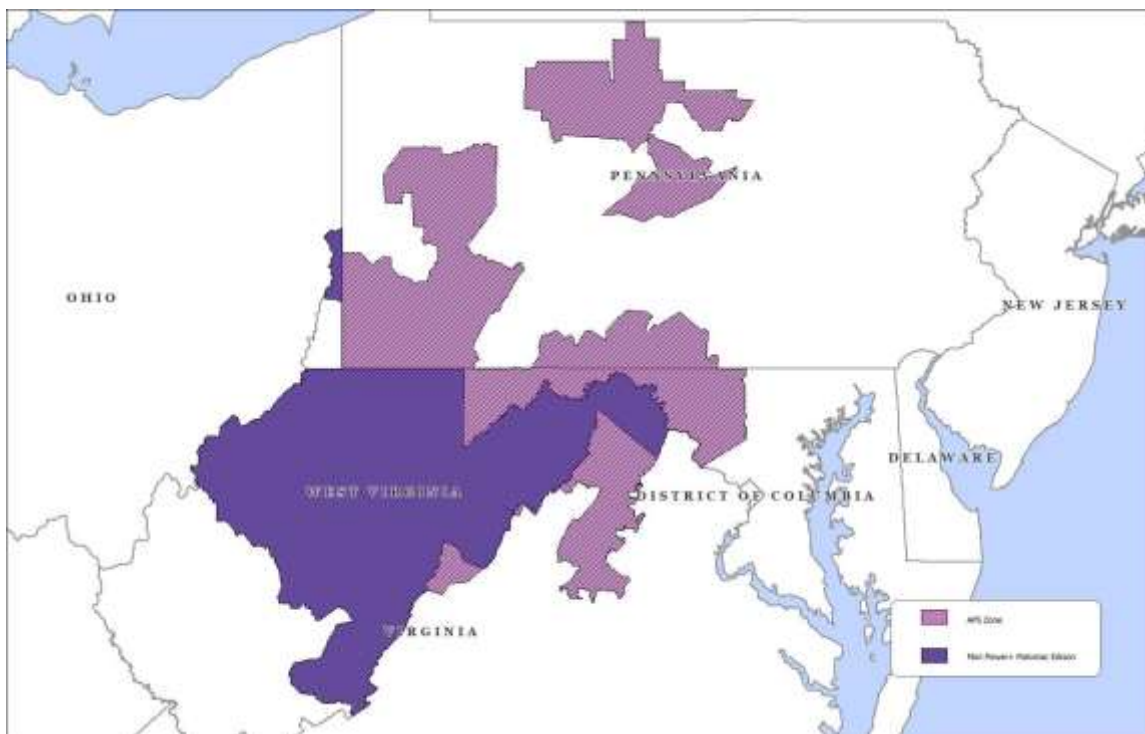
Asset Purchase Agreement.....Appendix D

Demand Resource Purchase Agreement.....Appendix E

1 RFP Overview

1.1 Introduction

Monongahela Power Company (“Mon Power”) does business in the State of West Virginia as a regulated public utility and generates, transmits and distributes electricity for sale in West Virginia and the PJM Interconnection, L.L.C. (“PJM”) regional electricity market. Mon Power, headquartered in Fairmont, West Virginia, currently serves approximately 390,000 electric customers located across approximately 13,000 square miles of West Virginia. Mon Power also provides generation supply to The Potomac Edison Company’s West Virginia customers, numbering approximately 135,000. Mon Power’s electric portfolio consists of 3,700 megawatts (“MW”) of generation capacity, including approximately 160 MW of non-utility generator (“NUG”) resources, over 2,000 miles of transmission lines at voltages ranging from 69 kilovolts (“kV”) to 500 kV, and more than 25,464 circuit miles of distribution lines at voltages ranging from 2.4 kV to 34.5 kV in West Virginia. Mon Power owns a mix of generating resources consisting of fossil-fuel plants and hydroelectric pumped storage. Additionally, Mon Power purchases certain capacity and energy from NUGs and PJM, a regional transmission organization that operates the wholesale electric grid in the Mid-Atlantic region of the United States.



In 2002, Mon Power became a member of PJM. As a result, Mon Power transferred operational control of its transmission assets to PJM.

Mon Power is a wholly-owned subsidiary of FirstEnergy Corp. (“FE”) (NYSE: FE). For more information about Mon Power, visit its website at www.firstenergycorp.com/mon_power.

1.2 Purpose

Mon Power is committed to providing a reliable supply of electric power to its customers. In December 2015, Mon Power filed an Integrated Resource Plan (“2015 IRP”) with the Public Service Commission of West Virginia (“PSC”) that identified a significant shortfall in generation compared to its load over the following fifteen (15) year period.¹ Since then, Mon Power has evaluated its generation portfolio based on recent rule changes in the PJM wholesale markets, and concluded that it may be in the best interest of both Mon Power and Potomac Edison-West Virginia and their customers to seek to sell its ownership stake in the Bath County Pumped Storage Project (“Bath County Project”) located in Warm Springs, Virginia.² Mon Power has updated its load forecast from the 2015 IRP, and after taking into account the impact of the presumed sale of the Bath County Project, has identified a capacity shortfall of approximately 1,045 MW by 2020 that rises to 1,400 MW by 2027. Through this RFP, Mon Power seeks to satisfy this capacity shortfall through a combination of an approximately 1,300 MW (UCAP) of generation capacity and up to 100 MW of demand resources.

In order to manage its capacity needs and ensure an adequate level of reliable generation supply for its customers, Mon Power hereby issues this RFP to:

1. acquire a generation facility or facilities that, at a minimum, meet established industry-wide reliability and performance criteria, or certain

¹ Monongahela Power Company and The Potomac Edison Company, 2015 Integrated Resource Plan, Case No. 15-2002 (filed Dec. 30, 2015).

² The potential sale of the Bath County Project will be considered via a separate RFP process that will be run concurrent with this RFP.

developmental requirements for new or planned electric generation facilities (described further in Section 4); and

2. acquire demand resources that satisfy the criteria described below to satisfy a portion of the identified future capacity needs (described further in Section 5).

Throughout this RFP document, the products described above are referred to collectively as the “Capacity Assets.” Proposals may be for either or both of the Capacity Assets.

Accordingly, you are invited to submit a written, binding proposal (“Proposal”) in accordance with the requirements described in this Request for Proposals (“RFP”). Entities that submit a Proposal are referred to as Respondents (“Respondents”)

Mon Power has retained Charles River Associates (“CRA”) to manage the RFP process for the purpose of creating this RFP and soliciting Proposals. CRA also will serve as the independent third party to evaluate all Proposals on behalf of Mon Power. CRA will administer this process through its dedicated RFP website (see Section 2.2). Responses to this RFP should be sent to the RFP Manager via email to MonPower-RFPManager@crai.com.

The milestone dates for this RFP process are presented below. Additional information about dates and deadlines for the RFP is provided in Section 2.4.

- | | |
|---|-------------------|
| • Issue RFP | December 16, 2016 |
| • Notice of Intent w/ Pre-Qualification Documents | December 23, 2016 |
| • Notification of Pre-qualification | January 6, 2017 |
| • Proposals Due | February 3, 2017 |

2 Information and Schedule

2.1 Information Provided to Potential Respondents

This RFP and all of its Appendices and forms are available on the RFP website www.MonPower-RFP.com. Interested parties are expected to be able to download this RFP with its required forms and complete the forms in Microsoft Word, Excel, and/or PDF format. Respondents should submit properly completed forms by the specified deadline to the RFP Manager via email (MonPower-RFPManager@crai.com). CRA will accept only Proposals that are complete. Proposals that are nonconforming, not complete, or that are mailed, or

hand delivered may be deemed ineligible and may not be considered for further evaluation.

CRA will send an electronic mail notice on or after December 16, 2016, to parties that it considers likely participants in this RFP. Additionally, a press release of this RFP will be published on www.MonPower-RFP.com on or after December 16, 2016.

By submitting a Proposal in response to this RFP, the Respondent certifies that it has not divulged, discussed, or compared any commercial terms of its Proposal with any other party (including any other Respondent and/or prospective Respondent), and has not colluded whatsoever with any other party.

2.2 Information on the RFP Website

The information on the RFP website (www.MonPower-RFP.com) contains the following:

- This RFP and associated appendices;
- Template Information Form Addendum (as described in Section 6.1);
- Form of Notice of Intent;
- Form of Non-Disclosure Agreement (“NDA”);
- Form of Pre-Qualification Application including Credit Worthiness information;
- Form of Asset Purchase Agreement (“APA”);
- Form of Demand Resource Purchase Agreement (“DR Agreement”);
- Frequently asked questions and answers about this RFP; and
- Updates on this RFP process and other relevant information.

2.3 Questions

All questions regarding the content of this RFP should be submitted in writing to the RFP Email Address (MonPower-RFPManager@crai.com) or via the RFP website. Respondents’ questions and CRA’s answers will be posted on the RFP website on a periodic basis. Other than questions and answers submitted through the RFP Email Address and posted on the RFP website, no other explanations or interpretations of this RFP will be given. Written questions will be

accepted by CRA until five (5) days before the date on which Proposals are due. Please note that such questions will not be treated as confidential. Questions and answers that are posted on the RFP website will be scrubbed of information identifying the party that originally asked the question.

In the event that a given Respondent has a question or seeks clarification or explanation of any data or information provided in this RFP, such Respondent is responsible for obtaining the desired information by submitting a written question to CRA through the RFP Email Address by no later than five (5) days before the date on which Proposals are due.

Any and all communications regarding this RFP will be submitted through the RFP Email Address, or posted on the RFP website. Under no circumstance should Respondents attempt to contact Mon Power or CRA employees directly with any matters related to this RFP.

Proposals containing material omissions will be deemed non-responsive and may be deemed ineligible and may not be considered for further evaluation.

However, while evaluating Proposals, CRA may require clarification or additional information about a given Proposal as part of its review. In such a case, CRA may request additional information about the Proposal from the Respondent. All requests will be made via email to the designated Respondent contact, and the Respondent will be required to respond to the request within five (5) business days of receipt of such request or CRA may disqualify Respondent's Proposal.

2.4 Schedule

The following schedule and deadlines apply to this RFP. Mon Power and CRA reserve the right to extend or otherwise modify any portion of this schedule at any time or terminate this RFP process at their discretion at any time prior to contract execution.

- Eastern Prevailing Time ("EPT") means Eastern Standard Time or Eastern Daylight Time, whichever is in effect in Fairmont, West Virginia on any date specified.
- All Proposals are due by 5:00 p.m. EPT, February 3, 2017. Proposals received after the specified date and time will be disqualified from further evaluation.
- Mon Power expects to execute the definitive agreements for acquisition of the Capacity Assets (the "Definitive Agreement(s)") no later than March 14, 2017. Below is the expected timetable for this RFP process, which is subject to change.

<i>Step</i>	<i>Timetable</i>
RFP Issued	December 16, 2016
Notice of Intent, Non-Disclosure Agreement, and Respondent Pre-Qualification Application Due	5:00 p.m. EPT, December 23, 2016
Respondents Notified of Results of Pre-Qualification Application Review	5:00 p.m. EPT, January 6, 2017
Proposal Due	5:00 p.m. EPT, February 3, 2017 ³
Proposal Evaluation	February 4 – February 24, 2017
Proposal Evaluation Completion Target and Recommendation to Mon Power	February 24, 2017
Due Diligence and Negotiations Period	February 24 – March 14, 2017
Definitive Agreement(s) Executed with Selected Respondent(s)	March 14, 2017
Applications filed with the PSC and the Federal Energy Regulatory Commission (“FERC”)	March 15, 2017

3 RFP General Requirements

Proposals must meet the following criteria. CRA may reject, without further review, any Proposals that do not meet the following criteria:

3.1 Respondent Pre-Qualification

To be eligible to submit a Proposal in response to this RFP, Respondents must be pre-qualified. To pre-qualify, a Respondent must submit the following items:

- a completed Notice of Intent (Appendix A);
- a completed Non-Disclosure Agreement (Appendix B); and
- a completed Pre-Qualification Application (Appendix C), including credit worthiness information.

These items are to be submitted to the RFP Manager no later than the date and time specified pursuant to Section 2.4 above.

CRA will notify Respondents by January 6, 2017 that they have successfully pre-qualified to submit a Proposal. Potential Respondents that have not submitted a Pre-Qualification application package by December 23, 2016 will not have their Proposals considered.

3.2 Multiple Proposals

In the event that multiple Proposals for different Capacity Assets are submitted by the same Respondent, the Respondent must indicate whether the Proposals are to be evaluated independently of one another.

3.3 Non-Disclosure Agreement

This RFP contains an NDA form. Respondents shall submit a signed version to the RFP Email Address (MonPower-RFPManager@crai.com) (see Section 2.2) by 5:00 p.m. EPT, December 23, 2016. Respondents may download the NDA form from www.MonPower-RFP.com.

3.4 Valid Proposal Duration

Proposal pricing must be valid for ninety (90) days following the Proposal Due Date of February 3, 2017. Pricing for a Proposal that is selected must remain valid until the transaction receives all necessary regulatory approvals.

3.5 Acknowledgement of RFP Terms and Conditions

The submission of a Proposal shall constitute Respondent's acknowledgment and acceptance of all the terms, conditions and requirements of this RFP.

4 Generation Facility Proposals

Mon Power seeks to procure ownership of a dispatchable generation facility or facilities⁴ amounting to approximately 1,300 MW of Unforced Capacity ("UCAP").⁵ The acquisition is expected to take place in 2017 following necessary regulatory approvals. Proposals are expected to be for the sale to Mon Power of 100% of the specified generation facility or facilities from which dispatchable output will be delivered. Proposed generation facilities should have no major operational limitations that reduce their ability to run for extended periods. Mon Power is willing to purchase a generation facility or facilities owned by multiple owners provided that the owners submit a joint proposal where full ownership of the facility or facilities is being offered.

4.1 Content Requirements for Generation Facility Proposals

This section describes Mon Power's requirements for the content and evaluation of any Proposal that is submitted in response to this RFP as an offer to sell a generation facility to Mon Power. Proposals that do not include all of the required information may be deemed ineligible and may not be considered for further evaluation. If it appears that certain information has inadvertently been omitted from a Proposal, CRA may but is not obligated to contact the Respondent to obtain the missing information, per Section 2.3. If, during the RFP process, there is a material change to the generation facility or the circumstances of the

⁴ Dispatchable generation, as that term is used in this RFP, shall have the meaning set forth on PJM's website, namely Dispatchable generation means "generation that can follow dispatch instructions between economic minimum and economic maximum."

⁵ Unforced Capacity, as that term is used in this RFP, shall have the meaning set forth in the PJM Reliability Assurance Agreement, namely Unforced Capacity "shall mean installed capacity rated at summer conditions that is not on average experiencing a forced outage or forced derating, calculated for each Capacity Resource on the 12-month period from October to September without regard to the ownership of or the contractual rights to the capacity of the unit."

Respondent that could affect the outcome of the RFP evaluation, the Respondent is obligated to inform CRA accordingly.

The winning Respondent must provide such additional information and data as may be requested by Mon Power to support regulatory review of the generation facility purchase transaction.

All Proposals must include a table of contents and provide concise and complete information on the topics described below, organized as follows:

4.1.1 GENERATION FACILITY EXECUTIVE SUMMARY

Proposals must include an executive summary of the generation facility's characteristics including any unique aspects and benefits.

4.1.2 GENERATION FACILITY GENERAL INFORMATION

4.1.2.1 Respondent's Information

Proposals must be submitted in the legal name of the actual party or the ultimate "upstream" organizational entity that would be bound by any resulting Definitive Agreement with Mon Power. Proposals must be authenticated by an officer or other employee who is authorized to bind Respondent to the Definitive Agreement based on the Proposals.

The first page of the Proposal shall list the Respondent and the Respondent's Contact Information (Name, Title, Phone, Email Address, and Mailing Address).

Proposals must include: information on the Respondent's corporate structure (including identification of any parent companies); a copy of the Respondent's most recent quarterly report containing unaudited consolidated financial statements signed and verified by an authorized officer of Respondent attesting to its accuracy; and a copy of Respondent's most recent three (3) annual reports containing audited consolidated financial statements. If such financial data is not available, as much comparable information as possible should be provided.

4.1.2.2 Respondent's Experience

The Respondent must provide a description of prior experience and qualifications as it relates to the execution of the Proposal. This should incorporate a summary of the experience and qualifications of the key contributors, including the total number of employees and prior experience and qualifications of any key developers, engineering, procurement and construction contractors, fuel managers, or other key contributors relating to the generation facility.

Respondents shall state the name of the generating facility, the county where the generating facility is located, the owner of the facility, and the commercial pricing node associated with the facility, if applicable. This information should be accompanied by a map(s) of the asset's location, as well as maps of any planned infrastructure upgrades in support of the generation facility.

CRA will accept Proposals for generation facilities located both inside and outside Mon Power's service territory, but facilities must be located inside the Allegheny Power Systems ("APS") zone in the PJM-region. Non-conforming bids by Respondents to sell a generation facility or facilities located outside of the APS zone may be considered if this RFP does not receive at least three qualified bids, and provided that the Respondent and proposed generation facility satisfy all other requirements found in Sections 3 and 4 of this RFP.

For a new or planned generation facility to be considered, the Respondent shall submit a copy of an executed pro-forma PJM Interconnection Service Agreement and Interconnection Construction Services Agreement, as well as a copy of a completed PJM Facilities Study and a PJM System Impact Study for the project for the proposed delivery point. Respondents submitting Proposals for a new or planned generation facility also must submit a copy of a fully executed engineering, procurement and construction ("EPC") contract.

4.1.2.3 Generating Facility Capacity Characteristics

Respondents shall state the nameplate capacity, net summer operating capacity, net winter operating capacity and the UCAP of the generation facility for the 2016/2017 PJM planning year. Respondents also should provide the expected UCAP for the PJM 2020/2021 Reliability Pricing Model ("RPM") Base Residual Auction. Generation assets offered must have a minimum UCAP of 100 MW.

4.1.2.4 Acquisition Date

Respondents shall assume that the acquisition of the generation facility would be closed and title transferred in 2017, subject to regulatory approvals.

4.1.2.5 Capacity Availability

For Proposals to sell an existing generation facility to Mon Power, the existing generating facility must have cleared in the RPM capacity auctions for 2018/2019 and 2019/2020 Delivery Years or be eligible to participate in the incremental RPM auctions for these specified delivery years.

For new or planned generation facilities, Mon Power will accept generation that qualifies as a Capacity Performance resource(s) in the 2020/2021 Delivery Year; and in all delivery years thereafter.

Respondents shall also describe the expected useful life of the generation facility.

4.1.3 GENERATION FACILITY TECHNICAL AND ECONOMIC DETAIL

4.1.3.1 Generation Technology

Respondents shall describe the generation technology of the facility, including the make, model, and name of the supplier of all major equipment.

All Proposals to sell a generation facility to Mon Power must utilize an existing, proven technology, with demonstrated reliable generation performance that is capable of sustained, predictable operation.

4.1.3.2 Dispatch Characteristics

Proposed generation facilities shall be fully dispatchable. Respondents shall provide the dispatch characteristics of the generation facility, including, but not limited to:

- minimum load level;
- ramp rates (up and down);
- number of gas turbines that can be started simultaneously (if applicable)
- heat rate curve for normal operations (e.g., the coefficients of a fifth-order equation), including the no load and full load heat rates;
- fuel consumption and heat rate during startup, including startup time and the total number of hours annually the facility can be assumed to be in startup mode;
- fuel consumption and heat rate when the facility is being shutdown, including how long shutdown takes and the total number of hours annually the facility can be assumed to be in shutdown mode;
- an estimation of the total number of hours annually that the facility operates at full load;
- capability decreases as a result of ambient temperature increases;
- supplemental firing capability and any operating limitations caused by such factors of design; and
- any other operational limitations that reduce unit availability or reduce a unit's ability to dispatch or regulate.

Regarding any major current and/or historical operational limitations, Respondents shall provide a description of the root causes of the limitations (e.g., OEM design, material condition of the facility, environmental permits, etc.).

Proposals for non-dispatchable resources, such as intermittent resources, will not be considered in this RFP.

4.1.3.3 Revenues and Operating Costs

For existing generation facilities, Respondents shall provide a detailed breakout of the facility's actual annual revenues for each of the past five (5) years. This will include energy, capacity, and ancillary service market revenues, as well as any other revenues the facility earned. Associated with these revenues, Respondents shall state the estimated annual operation and maintenance costs of the facility on a fixed (\$) and variable (\$/MWh) basis and provide the actual annual operation and maintenance costs of the facility for each of the past five (5) years in nominal dollars.

Respondents shall provide a detailed breakout of the generation facility's estimated and actual annual [fixed] costs for the following categories: labor, benefits, materials and all others for the past five (5) years. Respondents shall provide a breakdown of the number of people employed at the facility, including permanent and contracted employees, and whether those employees are organized under any labor agreement.

If, for any reason, fixed or variable costs for the generation facility are expected to change in the foreseeable future (*e.g.*, following planned upgrades, *etc.*), the Respondent should provide both the new expected cost(s) and the year(s) in which the costs are expected to change.

Respondents shall also state and describe any property, state, and local taxes and tax abatements associated with the generation facility, including West Virginia Business and Occupation ("B&O") and local property taxes.

All cost data should be provided both for the generation facility under its current owner and as costs might be different under Mon Power ownership.

For new generation facilities, Respondents shall provide information on capacity levels (in UCAP) that have already cleared in the PJM capacity market, and associated revenue.

New generation facilities also must provide reasonable expectations for all of the above details associated with plant revenues and costs, including market revenues, fixed and variable operations costs, expected upgrades and service timing, and taxes.

4.1.4 GENERATION FACILITY OPERATING CONSIDERATIONS

4.1.4.1 Generation Facility Operating Data

For an existing generation facility, Respondents shall provide historical operating data consisting of: (i) the commercial operation date of the facility; (ii) the annual run-time hours (per unit, if applicable); (iii) the annual operating cycles per year (per unit, if applicable); (iv) the annual facility capacity and availability factors; and (v) the PJM equivalent forced outage rate demand (“EFORd”). The above annual data may be limited to the most recent five (5) years. The EFORd should correspond to the UCAP amounts awarded for the last five (5) Planning Years (as defined by PJM). Respondents shall provide a breakdown of EFORd by failure mode or NERC/GADS category. Respondents shall provide a description of the major contributors to the generation facility EFORd. If there are particular costs associated with maintaining the EFORd of a generation facility, those must be provided.

Respondents shall provide details on any current generation facility equipment issues and concerns, including the potential drivers and recommended mitigation procedures for the issues and/or concerns. These may include, but are not limited to, any operation of the turbine, generator, or boiler outside recommended parameters established by OEM, compromised turbine or compressor blades, *etc.* Respondents shall provide a list of any redundant equipment that is currently bypassed or out of service, and the related reason. Respondents will also provide historical information on such issues and concerns that have arisen, how they were resolved, and the associated costs for the last ten (10) years of operation, or for the commercial life of the generation facility, whichever is lesser.

Respondents shall provide maintenance history for the lesser of the past ten (10) years of operation, or the commercial life of the generation facility consisting of: (i) dates of last full unit inspection and findings based on OEM recommendations; and (ii) outstanding OEM recommendations remaining to be implemented, including the cost and outage duration for any major maintenance requirements expected over the coming ten (10) years. Respondents shall provide the outage reports for major planned and forced outages for each of the past five (5) years.

For new or planned generation facilities, Proposals should include the manufacturer or developer quoted expected performance, as well as historical performance of similar facilities in PJM.

4.1.4.2 Generation Facility Operating Plan

Proposals should include a summary of the operating plan for the generation facility. Such plan should include software management system(s) and personnel roles and responsibilities for operating, maintaining and servicing the

facility, including any contractual arrangements currently in place. A Respondent shall provide an overview of key scheduled outage and maintenance plans, as well as plans for procuring and maintaining key spare parts.

For new or planned generation facilities, this should include a summary of the intended operating plan for the facility. The plan should include software management system(s) planned or in use (*e.g.*, SAP, *etc.*), any third-party roles and responsibilities for operating, maintaining and servicing the facility, including any contractual arrangements to be executed. A Respondent should provide an overview of key scheduled outage and maintenance plans, as well as plans for procuring and maintaining key spare parts.

4.1.4.3 Generation Facility Fuel Supply

Respondents shall provide a description, including detailed cost information, contract duration, and material contract terms (including whether fuel contracts are take or pay, minimum volume requirements, price reopeners, assignability or termination provisions) of all fuel purchase, storage, and transport agreements related to the generation facility Proposal. Cost of fuel commodities should be provided separately from the cost of fuel transportation. Respondents also must list any provisions or other considerations that would prohibit or impair the assignment and/or affect the performance obligations of either party under the respective contract(s). Respondents should describe fuel purchase and transport to the generation facility, as well as any existing or known potential operational restrictions or impediments on such fuel purchase and transportation. Respondents also are required to provide a description of the existing fuel supply (and storage) infrastructure serving the generation facility, including the infrastructure for the delivery of secondary fuel for dual-fuel resources. However, Mon Power, through this RFP, is seeking to purchase a generation facility, and it is Mon Power's sole discretion whether to assume any contract or contracts associated with the proposed generation facility related to fuel commodities and/or fuel transportation.

Proposals should describe, to the extent possible, their fuel sourcing strategy, including from where their fuel is sourced, with a focus on whether it is sourced from inside the state of West Virginia. If a respondent has historically sourced fuel from outside of West Virginia, it may choose to provide detail on the costs that would be associated with sourcing fuel from within West Virginia (costs for commodity should be provided separately from transport) by submitting a separate Proposal.

Proposals should describe the generation facility's ability to access a reliable fuel supply that would support operation for any hour throughout the year, including the plant's on-site fuel storage and dual-fuel capabilities, if applicable. Proposals for coal generation facilities should provide the number of days of coal the facility

is capable of storing onsite. Proposals for gas generators must have dual-fuel capability and the ability to store three (3) or more days of fuel, and/or firm gas transportation contracts. Proposals that do not meet these requirements will be disqualified.

4.1.5 GENERATION FACILITY ENVIRONMENTAL CONSIDERATIONS

4.1.5.1 Emissions and Waste Disposal Compliance

Proposals are expected to provide information regarding current and planned measures taken to comply with local, state, and federal environmental regulations. Respondents offering coal fired generation facilities should include information regarding current and planned measures to comply with coal ash regulations, as well as a description of any other solid waste disposal considerations. Respondents offering coal fired generation facilities also must disclose any long-term contracts for the sale and/or disposal of Coal Combustion Residuals (“CCRs”), or other beneficial use plans for CCRs. Proposals should provide information on expected upgrade costs, outages associated with upgrades, increased operations and maintenance costs, operational limitations, permit costs, and administrative costs associated with environmental regulations.

Respondents also shall provide a summary of any environmental control equipment installed at the facility and the emission rates for NO_x, SO₂, CO₂, VOC, PM and CO in units of lb/mmBTU.

Note that the cost of compliance with any current environmental laws or regulations should be addressed in the Proposal.

4.1.5.2 Water Supply

Respondents shall provide a detailed description of the water supply, including but not limited to, contract term, water usage, and cost of water for the generation facility. Respondents shall also provide the status of the facility’s National Pollutant Discharge Elimination System (“NPDES”) permits, including, but not limited to, permit conditions, permit violations reported over the last five (5) years, the timing of next permit renewal, and any other known concerns.

If applicable, Respondents shall provide a summary of the facility’s water chemistry program, including key systems and suppliers, and its performance in the most recent year.

4.1.5.3 Permits

The generation facility must have all relevant environmental and other permits necessary for operation and maintenance. Respondents shall provide a

description of all permits currently in place for the operation and maintenance of the facility (e.g., Spill Prevention Containment and Control plans, Title IV and Title V permits of the Clean Air Act, Cap and Trade Permits, NPDES permits, Water Withdrawal, and Pollution Incident Prevention Plan). Respondents must also state whether there are any provisions that would prohibit the assignment of such permits and/or any consents required for the assignment of such permits.

Respondents shall describe any operating limitations imposed by permitting or environmental compliance that limit plant availability.

Respondents shall provide a description of any identified environmental liabilities (e.g., potential site remediation requirements, etc.) for the facility.

4.1.6 GENERATION FACILITY FINANCIAL CONSIDERATIONS

4.1.6.1 Capital Expenditures

Respondents shall provide historical and budgeted capital expenditures for the generation facility. Historical capital expenditures shall be provided for each of the past five (5) years in nominal dollars. Planned and budgeted capital expenditures shall be provided for each of next five (5) years in nominal dollars along with a description of the projects involved. Respondents also should disclose any known capital expenditure needs outside of the five-year time horizon that are expected to exceed \$1 million dollars.

Respondents shall supply a summary list of all spare parts and components currently owned by the facility and their approximate dollar value. Respondents shall also identify any spare parts or components that are currently needed and/or on order as of the date the Proposal is submitted.

4.1.6.2 Acquisition Price

Respondents shall submit an acquisition price consisting of a single fixed payment that is inclusive of all monetary consideration for the generation facility, working inventory, and, if applicable, ancillary facilities and contractual arrangements (e.g., for fuel supply and transportation, maintenance, pollution control bonds, etc.). Respondents must submit their best and final price with their Proposal. Respondents must provide details regarding any liabilities that Mon Power might assume as a buyer of a generation facility.

For new or planned generation facilities, the price offered in the Proposal should include all costs associated with providing a completed generating asset whose full output will reside in the APS zone in the PJM transmission system. This includes, in particular but without limitation, costs associated with transmission

interconnection, including engineering studies, siting, permitting, acquisition and construction.

A Respondent may have fuel inventories at a generation facility site. Such fuel has market value. If the intention would be for that fuel to transfer along with the generation asset, the Respondent should separately list the type, quantity, and expected price of the fuel at the time of sale. The resulting cost may then be provided as a credit against the acquisition price.

4.1.6.3 Other Contractual Commitments

Respondents shall provide a description, including detailed cost information, of any other contracts that are currently necessary for generation facility operations, including, but not limited to, long-term service agreements, state union labor contracts and/or technical support contracts, agreements related to capacity and/or energy sales from the facility and any capacity offers submitted to any ISO/RTO related to the generation facility that if accepted would be binding on Mon Power as a result of an acquisition. Respondents must also state whether there are any provisions that would prohibit the assignment and/or affect the performance obligations of either party under the respective contract, including transfer or cancellation fees.

4.1.7 GENERATION FACILITY LEGAL CONSIDERATIONS

4.1.7.1 Generation Facility Asset Purchase Agreement

This RFP contains a proposed form of the APA. Respondents should download the APA from the RFP website (www.MonPower-RFP.com) and be ready to execute the APA immediately upon selection as the winning Respondent. A separate APA submitted by a Respondent will not be considered and may cause Respondent's Proposal to be disqualified.

4.1.7.2 Legal Proceedings

The Proposal should include a summary of all material actions, suits, claims or proceedings (threatened or pending) against Respondent, its Guarantor (if applicable) or involving the generation facility as of the Proposal due date, including but not limited to those related to employment and labor laws, environmental laws, or contractual disputes for the development, construction, maintenance, fueling, or operation of the facility.

4.1.7.3 Material contingencies

Proposals that have material contingencies, such as for financing, will not be considered.

4.1.8 GENERATION FACILITY LOCAL ECONOMIC IMPACT

Proposals should include a description of the expected use of any West Virginia fuels, labor, taxes, and other in-state resources for the development, construction and operation of the generation facility. Proposals should also describe and provide support for the expected economic benefits to the local community, region, and state of West Virginia, associated with the development, construction, and/or operation of the generation facility. These descriptions will supplement data that is to be provided in the Information Form Addendum on the same topic, as described in Section 6.1.

4.1.9 GENERATION FACILITY, ADDITIONAL ITEMS SPECIFIC TO NEW FACILITIES

All Proposals for new generation facilities must have a well-defined and credible development plan for Respondent to complete the development, construction, and commissioning of the facility on their proposed construction timeline. Information provided should include:

- roles and responsibilities of the companies involved in the design, development, procurement and construction of the facility. Information about key contributors should extend to the status of contractual relationship with each key contributor; key contractual assurances, guarantees, warranties or commitments supporting the Proposal, including an executed EPC contract, and any past experience of Respondent working with each key contributor;
- description of status of major equipment procurement, as well as processes for engineering, procurement, and construction bids and awards;
- description of the facility site and Respondent's rights (*i.e.*, whether owned, leased, under option) to such site. Please indicate whether additional land rights are necessary for the development, construction, and/or operation of the facility;
- discussion of the development schedule and associated risks and risk mitigation plans for that schedule, including whether there are contract commitments from contractors supporting the proposed schedule. The Respondent should be prepared to document and commit to a proposed development schedule, which should include a commercial operations date;
- discussion of the financing arrangements secured by the Respondent, including an overview of the sources of funds, and level of commitment from debt, equity, or other investors;

- discussion on permitting, including a list of all required permits, permitting status of each, and key risks to securing necessary future permit approvals;
- description of status in PJM queue process and presentation of documents described in Section 4.1.2.2; and
- financial information regarding guarantors and sources of equity funding along with either the Respondent's or guarantors' senior unsecured debt and/or corporate issuer ratings documentation from Moody's and Standard & Poor's showing the name of the rating agency, the type of rating, and the rating of the Respondent or guarantor.

Proposals that are not site-specific or do not currently have land control for the facility site will be disqualified from the evaluation process.

Mon Power will not assume any responsibility for the successful development, construction, and/or completion of a proposed facility. Accordingly, development schedule, budget, permits and approval risk will be the sole responsibility of the Respondent.

4.2 Generation Proposal Evaluation and Contract Negotiations

4.2.1 INITIAL PROPOSAL REVIEW

After the Proposal due date, CRA will review all responses for completeness, responsiveness and compliance with the minimum proposal eligibility requirements specified in Sections 3 and 4 of this RFP, and the Pre-Qualification Application in Appendix C. CRA will not accept unsolicited updated information from Respondents during the evaluation period. As a result of this screening, CRA may in its discretion either eliminate Proposals from further consideration, or contact Respondents to clarify issues or request additional information. CRA will make such requests in writing via email (MonPower-RFPManager@crai.com) and Respondent will be required to respond to the request within five (5) business days of receipt of such request or CRA may deem the Respondent's Proposal (see Section 2.3) ineligible and not in consideration for further evaluation.

4.2.2 EVALUATION COMPONENTS

CRA will review and evaluate Proposals to identify the Proposal(s) that meets the capacity needs of Mon Power and provides the best combination of value, risk, and reliability for Mon Power and its customers. To accomplish this, CRA will assess each Proposal against a scoring system that includes cost and non-cost factors. This approach allows a thorough and efficient review that appropriately

weighs diverse factors and maximizes CRA's ability to compare Proposals on a level, objective basis. The Proposal(s) that are selected from the RFP process for recommendation to Mon Power will be those that earn the most points and represent a portfolio that most efficiently fulfills Mon Power's needs.

During the evaluation process, all Respondents' identities will remain confidential. Neither Mon Power nor its technical advisors will be made aware of the Respondent's identities during this time.

4.2.3 COST FACTORS: NET PRESENT VALUE CALCULATION

For each Qualified Proposal, CRA will calculate the net present value of expected customer impact ("NPV") for the full transaction associated with each Proposal. The NPV for each Qualified Proposal will be based on the data provided by the Respondent in accordance with Section 4.1 of this RFP, or provided in response to a Respondent-specific CRA information request as set forth below. NPV calculations will be based on standardized forecasts for energy and capacity market prices as well as future fuel prices. CRA will establish expected plant performance via a modeled dispatch for each Proposal. Some cost items, like labor rates, may be updated on a uniform basis to reflect expected costs should a generation asset become part of the Mon Power fleet.

Costs accounted for in the NPV calculations will account for compliance with existing environmental regulations and permits applicable to the proposed facility. This relates to local, state, and federal regulations. For coal fired resources, this should include coal ash regulations. Impacts considered will include, but not be limited to, upgrade costs, outages associated with upgrades, increased operations and maintenance costs, operational limitations, permit costs, and administrative costs. All such expected costs, both one-time and recurring, should be provided by the Respondent.

During this analysis, if a Proposal for a generation facility is to receive credit for the risk-reducing characteristics of its fuel arrangements, Respondent must provide the costs of those arrangements. Likewise, if a generation Proposal is to receive credit for sourcing fuel from within West Virginia and does not historically do so (with all or part of its fuel supply), Respondent must provide the costs of those alternative arrangements for CRA's consideration.

For Proposals based on new or planned generating assets, evaluation of revenues and plant performance in the NPV calculation will be based on CRA's dispatch modeling, based on quoted performance and PJM fleet average for similar technologies.

Analysis rules and projections will be developed by CRA and will reflect assumptions about the future trajectory of operating costs and capital

investments at generating units in the Mid-Atlantic United States. The rules used to make such projections will be applied by CRA consistently across all Respondents, as will all elements of the NPV analysis. Analysis rules are the proprietary property of CRA and Mon Power and will not be made available to Respondents.

The rules for the performing the NPV analysis will be determined by CRA and Mon Power in advance of the receipt and review of any Proposals. However, as part of the process of evaluating Proposals, cases may arise where, in order to adequately project asset costs or to facilitate a comparison between Qualified Proposals, the rules related to the NPV analysis may require review and/or adjustment. To the extent that any additions or adjustments are required, such additions or adjustments will be made solely by CRA. In such cases, any and all rules will be applied consistently across all Respondents.

While performing NPV analyses of Proposals, CRA may request additional or clarifying information from a given Respondent regarding unit performance, operating costs or other factors that influence the NPV calculation for a given capacity resource. Requests for additional information may be required to ensure that all Qualified Proposals are fairly and consistently evaluated. Consistent with Section 2.3, in such cases, Respondents will be required to respond within five (5) business days of receipt of such request. CRA will not consider unsolicited updates from Respondents related to the cost of any capacity resource.

4.2.4 NON-COST FACTORS

4.2.4.1 Generation Facility Unit Location

Mon Power, consistent with the requirements of the West Virginia Code, prefers Proposals that benefit the economy of West Virginia.⁶ This evaluation criterion will reflect this preference.

4.2.4.2 Generation Facility Fuel Usage

⁶ See W. Va. Code §§ 24-1-1(a)(3), 24-2-1d(a) and (c), and 24-2-1g(a)-(b).

In addition to having an express preference for generating assets to be located within the State of West Virginia, the West Virginia Code also requires preference be given to generators that burn fuel sourced in West Virginia.⁷ Accordingly, points associated with this criterion will reflect the proportion of fuel used at the plant that is sourced from West Virginia, as provided in Section 4.1.4.3. If a plant has not historically sourced fuel from West Virginia, but would be able to, such fuel arrangements may earn points in this category as long as the associated costs are provided for consideration in the NPV calculation.

4.2.4.3 Fuel Risk

Proposals are preferred that include fuel availability throughout the year, by having reliable primary fuel transportation, a secondary delivery route, and /or on-site storage for reliability in the event of temporary disruptions to the primary fuel transportation. In addition to the importance of overall reliability, fuel security is important in the context of PJM Capacity Performance requirements.

The Proposal will be evaluated based on CRA's assessment of the demonstrations made and how that would affect the Proposal's associated fuel risk and the impact on Mon Power's ability to serve its capacity needs. A Proposal may only earn points for characteristics for which the associated costs have been provided for consideration in the NPV calculation.

4.2.4.4 Development, Permitting, and Approval Risks

Mon Power has a need for capacity and expects to make commitments in the PJM capacity market based on the selected proposal. Therefore, Proposals will be evaluated based on the risks associated with proposed development plans and the associated contractual commitments. Additionally, plans for significant upgrades to existing facilities that are required to support continued operation will also be evaluated. Evaluation of the risk of development plans will include review of proposed schedule, budget, permitting, and required approvals. Proposals should include advanced and well-defined development plans.

⁷ See W. Va. Code § 24-2-1d(a) and (c),

Proposals for existing generation facilities will automatically receive all available points in this category. For evaluation of new generating assets, Proposals will be evaluated based on CRA's assessment of the demonstrations made and how such demonstrations would affect the Proposal's ability to ultimately be developed and serve Mon Power's needs.

4.2.4.5 Ease of Integration

Mon Power is seeking generation facilities that, if possible, can be cost-effectively and efficiently incorporated into its operating and corporate frameworks. CRA will review Proposals on this criterion as it relates to the following metrics:

- manufacture and vendor warranty transferability;
- fuel and fuel transportation contract flexibility and transferability;
- employee integration (union and non-union);
- assumption or ability to replace existing contracts (e.g., long-term service agreements, maintenance, *etc.*);
- compatibility of control systems;
- integration or cancellation of supply chain and other vendor agreements; and
- acceptability of standard agreements provided with this RFP.

Proposals will be evaluated based on CRA's assessment of the demonstrations made and how that would affect the Proposal's ability to be integrated into Mon Power's corporate and operating frameworks.

4.2.4.6 Additional Proposal-Specific Risk Factors

Certain risk factors may be unique to a Proposal and may be significant enough to independently impact the overall ability of the Proposal to meet Mon Power's needs. For example, if there is uncertainty whether a key operating permit/license for a facility can be renewed, thereby jeopardizing the ability of the facility to continue operating, then that risk will also be included as an independent consideration in the final summary evaluation. Additionally, if a Proposal includes a generation facility that has undergone frequent ownership changes in recent years, this could impact the generation facility due to differences in operational and maintenance practices and procedures, and could impact the quality of the data provided by Respondents for the proposed

generation facility. Any such risks should be disclosed along with a description of the associated measures taken to mitigate the risk. Failure to disclose a reasonably foreseeable risk or risks may be a basis to disqualify a Proposal.

Proposals with no such risks as determined by CRA will receive the full number of points available in this category. Proposals with asset- or project-specific risks that are not able to be fully mitigated may receive fewer points depending on CRA's assessment.

4.3 Discussion of Proposals During Evaluation Period

During the evaluation process, CRA may gather additional information from one or more Respondents. Any such communications with a Respondent shall in no way be construed as commencing contract negotiations, or as negotiations to purchase a generation facility from such Respondent.

4.4 Selection of Highest Scoring Proposal(s)

Once the total score for each Qualified Proposal has been calculated based on the RFP responses, CRA will identify the Proposal or portfolio of Proposals that meets Mon Power's capacity needs, amounting to approximately 1,400 MW UCAP to be acquired by Mon Power. To meet its needs, Mon Power may need to contract with multiple generating assets and/or demand resource(s). In order to secure the overall bundle of Proposals that meets Mon Power's capacity needs, there is no assurance that the individual, highest-scoring Qualified Proposal(s) will be selected.

4.5 Contract Execution

Mon Power does not, by this RFP, obligate itself to purchase any generation facility or facilities, or to execute the Asset Purchase Agreement with any Respondent who submits an offer to sell generation capacity to Mon Power and Mon Power may, in its discretion, reject any or all Proposals to supply generation capacity to Mon Power, as such are described in this RFP.

Selection of a winning Proposal shall not be construed as a commitment by Mon Power to execute the APA. During the period between when CRA makes its recommendation(s) to Mon Power and the date of execution of the APA, Mon Power will conduct additional due diligence on the Proposal which may include, but not be limited to, onsite visits, management interviews, legal and regulatory due diligence and detailed engineering assessments.

4.6 Generation Proposal Fee

The non-refundable fee for evaluating each Proposal for a generation facility is \$10,000. Respondents must pay a separate fee for each Proposal submitted. This sum will serve to defray evaluation costs by CRA and limit extraneous proposals. Respondents can find instructions for paying fees for their Proposal(s) on the RFP website.

5 Demand Resource Proposals

Mon Power seeks to procure demand side resource(s) (“Demand Resource(s)” or “DR”) from one or more Mon Power or Potomac Edison-West Virginia customers (each a “Customer”) or Curtailment Service Provider(s) (“CSP”)(collectively, “DR Supplier(s)”), in an amount up to 100 MW of Demand Resources located entirely within the Mon Power/Potomac Edison-West Virginia service territories. Proposals for Demand Resources are to be for assets that are eligible to participate in the PJM RPM capacity market as Capacity Performance resources and available for a four-year period starting in the 2021/2022 Delivery Year and that can meet the additional performance requirements of Mon Power as described in 5.1 and 5.3 hereof. The term of any agreement between Mon Power and a DR Supplier will be four (4) years (June 1, 2021 – May 31, 2025). Demand Resources will be procured from not more than a total of five (5) DR Suppliers.

Proposals for Demand Resources may be included with a Proposal to sell a generation facility to Mon Power as described in Section 4 hereof, or may be submitted on a standalone basis. In addition to the requirements set out in this section, Proposals offering a Demand Resource as a standalone product must also meet the RFP General Requirements set out in Section 3 herein.

5.1 Demand Resource Product Definition

To be eligible for participation in this RFP, the Demand Resources offered by a DR Supplier must:

- meet all eligibility and performance requirements for participation in the PJM RPM as a Capacity Performance demand resource, according to those definitions and requirements included in the currently-effective PJM Tariff and PJM Manual 18 as of the date of issuance of this RFP;⁸
- meet the additional performance requirements described in Section 5.3 herein;
- be sourced from locations entirely within the Mon Power/Potomac Edison-West Virginia service territories of the APS zone;
- be at least 10 MW and not more than 100 MW of demand resources (whether from a Demand Resource Customer or CSP) from a single location or aggregated from multiple locations, with the amount of demand reduction capability determined in accordance with the method described in 5.4.1;
- use an existing, proven technology that has demonstrated reliable demand reduction, as such is defined for the PJM footprint, which may include use of behind the meter generation; and
- reduce load by a predetermined amount within thirty (30) minutes of notification by Mon Power of a curtailment event without further direction or communication by or from Mon Power.

5.2 Demand Resource Purchase Agreement

This RFP contains a proposed form of the DR Agreement that DR Supplier will be expected to execute with Mon Power. DR Suppliers should download the form from the RFP website (www.MonPower-RFP.com) and be prepared to execute the DR Agreement upon notification of selection as a winning supplier of Demand Resource(s). Submission of a separate DR Agreement will not be considered and may cause a DR Supplier's Proposal to be disqualified.

⁸ DR Suppliers will be expected to ensure that their Demand Resource(s) continue to satisfy the requirements to be a Capacity Performance demand resource, as set forth in the PJM Tariff and PJM Manual 18 as of the date of issuance of this RFP, even if PJM makes changes to those requirements during the term of any agreement between Mon Power and a DR Supplier.

With respect to a Proposal from a CSP, Mon Power will not be responsible for communicating with or managing the relationship or performance of any customer within an aggregation (“Program Participants”), and the CSP shall be solely responsible for the same in all respects. Accordingly, the DR Agreement provides that with respect to a Proposal from a CSP, the CSP, and not Mon Power, shall be responsible for any and all Program Participant relationships, the performance of the obligations of any Program Participant within an aggregation, and payments to such Program Participants.

To mitigate risk, Mon Power may require the DR Supplier to provide additional collateral (*i.e.*, collateral in excess of that posted with the submission of the Proposal) upon execution of a DR Agreement. Mon Power reserves the right to determine the required form and amount of that additional collateral requirement for the winning Proposal.

5.3 Emergency Curtailment Events: Notification and Performance Requirements

Demand Resources offered by a DR Supplier must meet notification and performance requirements applicable to an “Emergency Curtailment Event”, as defined and described herein. For purposes of this RFP and any DR Agreement executed following this RFP, an “Emergency Curtailment Event” shall be one in which either Mon Power or PJM determines, in its respective sole discretion, that an emergency situation exists that may jeopardize the integrity of either the distribution or transmission system in the area. PJM, which is the regional transmission organization of which Mon Power is a member, may also initiate an Emergency Curtailment Event upon its sole determination that a pre-emergency situation exists.

5.3.1 NOTIFICATION, PERFORMANCE, AND TEST REQUIREMENTS

Emergency Curtailment Events initiated by PJM: For Emergency Curtailment Events initiated by PJM, DR Suppliers must agree to and be capable of meeting, throughout the entire term of the DR Agreement,⁹ all notification and

⁹ DR Suppliers will be expected to ensure that their Demand Resource(s) continue to satisfy the requirements to be a Capacity Performance demand resource, as set forth in the PJM Tariff and PJM Manual 18 that are in effect as of the date of issuance of this RFP, even if PJM makes changes to those requirements during the term of the DR Agreement.

performance requirements applicable to Capacity Performance demand resources, as set forth in the PJM tariff and PJM Manual 18 at the time of the issuance of this RFP. During Emergency Curtailment Events initiated by PJM, PJM will notify Mon Power using the applicable notification methods and requirements set forth in the PJM tariff and PJM Manual 18. Then, Mon Power will notify the DR Suppliers of an Emergency Curtailment Event by issuing an electronic message to a device or devices such as telephone, facsimile, or email, selected and provided by the DR Supplier and approved by Mon Power. DR Suppliers must curtail Actual Measured Load to "Firm Contract Load" by the time specified by PJM and communicated by Mon Power to the DR Supplier.¹⁰ During the entire period of an Emergency Curtailment Event initiated by PJM, the DR Supplier's Actual Measured Load must remain at or below its Firm Contract Load with such load being measured every clock half hour. A DR Supplier's Actual Measured Load shall be determined using the highest kW during the Emergency Curtailment Event. Mon Power will provide the DR Supplier a notification of when Emergency Curtailment Events initiated by PJM have ended.

Emergency Curtailment Events initiated by Mon Power: In addition to meeting the notification and performance requirements applicable to PJM Capacity Performance demand resources, DR Suppliers must also agree to and be capable of meeting the following additional notification and performance requirements applicable to Emergency Curtailment Events initiated solely by Mon Power:¹¹

- DR Suppliers must curtail Actual Measured Load to "Firm Contract Load" within thirty (30) minutes of the time Mon Power sends such notification to the DR Supplier;
- an Emergency Curtailment Event requested solely by Mon Power or a transmission operator within the Mon Power/Potomac Edison-West

¹⁰ For purposes of this RFP and any Agreement resulting from this RFP, "Firm Contract Load" shall be that portion of a DR Supplier's electric load that is not subject to curtailment. The Firm Contract Load shall be decided by the DR Supplier at the time the DR Agreement is executed.

¹¹ Mon Power-initiated Emergency Curtailment Events may include events resulting from any distribution or transmission issues within the Mon Power and/or Potomac Edison-West Virginia service territories.

Virginia service territories of the APS zone may occur anytime during the year with no restrictions on the number of events or the duration of an event;

- notification of an Emergency Curtailment Event initiated solely by Mon Power will consist of an electronic message issued by Mon Power to a device or devices such as telephone, facsimile, or email, selected and provided by the DR Supplier and approved by Mon Power. Two-way information capability shall be incorporated by Mon Power and the DR Supplier in order to provide confirmation of receipt of notification messages. Mon Power will provide the DR Supplier a notification of when Emergency Curtailment Events have ended. Operation, maintenance and functionality of communication devices for receipt of notifications selected by the DR Supplier shall be the sole responsibility of the DR Supplier, and receipt of notifications set out in this paragraph shall be the sole responsibility of the DR Supplier; and
- during the entire period of an Emergency Curtailment Event initiated by Mon Power, the DR Supplier's Actual Measured Load must remain at or below its Firm Contract Load. A DR Supplier's Actual Measured Load shall be determined using the highest kW during the Emergency Curtailment Event as measured by Mon Power every clock half hour.

Mon Power will provide notice to PJM of any Mon Power-initiated Emergency Curtailment Event to ensure coordination.

Test Requirements: In a PJM delivery year (June 1st – May 31st) when an Emergency Curtailment Event has not been requested of DR Suppliers by PJM between June 1 and May 7, Mon Power shall declare an Emergency Curtailment Test Event of all DR Suppliers by May 31 in order to meet Mon Power's PJM test obligations for Load Management Resources. The duration of this test will be one hour. Mon Power will schedule the test and the DR Suppliers shall receive advance notification of the test. All provisions of the DR Agreement shall apply to this test.

5.3.2 REMEDIES FOR NON-PERFORMANCE

If at any time during an Emergency Curtailment Event, a DR Supplier's Actual Measured Load exceeds one-hundred ten percent (110%) of its Firm Contract Load, the DR Supplier shall : (i) forfeit its payment for the month in which the Emergency Curtailment Event occurred; (ii) pay the sum of all payments received by the DR Supplier under the DR Agreement during the immediately preceding twelve billing months; and (iii) pay an Emergency Curtailment Event Charge which equals the amount of DR Supplier's actual hourly load during an Emergency Curtailment Event that exceeds the customer's pre-established

contract Firm Contract Load multiplied by three hundred percent (300%) of the PJM Real-Time Locational Marginal Price as defined and specified by PJM at the appropriate pricing node during the applicable hour(s). In addition, Mon Power will have the right, to be exercised at Mon Power's sole discretion, to suspend (for a minimum of 12 months) or terminate the DR Agreement with respect to a DR Supplier or, in the case of a CSP, with respect to one or more of that DR Supplier's customers.

If at any time during the Emergency Curtailment Event, a DR Supplier's Actual Measured Load is greater than one hundred percent (100%) and less than or equal to one-hundred ten percent (110%) of its Firm Contract Load during the Emergency Curtailment Event, the DR Supplier shall forfeit its payment for the month in which the Emergency Curtailment Event occurred and shall pay the Emergency Curtailment Event Charge described above.

A DR Supplier shall be responsible for, and shall indemnify Mon Power for, any PJM non-performance penalties, costs, charges or other amounts assessed by PJM and incurred by Mon Power as a result of non-performance attributable to the DR Supplier's Demand Resources, including but not limited to any Capacity Resource Deficiency Charges, Non-Performance Charges or similar charges or penalties under the PJM Agreements. In no event shall the penalties listed above for non-performance during an Emergency Curtailment Event be less than the sum of any PJM non-performance penalties, costs, charges or other amounts incurred by Mon Power as a result of non-performance attributable to the DR Supplier's Demand Resources and the Emergency Curtailment Event charge.

5.4 Demand Resource Proposal Requirements

5.4.1 ACQUISITION PRICE

DR Suppliers shall submit an acquisition price consisting of a single fixed amount denominated in units of dollars per megawatt-month (\$/MW-month), which is to apply for the term of the DR Agreement ("Acquisition Price"). If a Proposal is accepted, the DR Supplier will be compensated in an amount equal to the monthly Curtailable Load times the Acquisition Price.¹² The Proposal should

¹² Curtailable Load shall be calculated for each DR Supplier by subtracting the contract Firm Contract Load from the DR Supplier's monthly highest thirty (30) minute integrated kW load occurring during the non-holiday weekday hours of 11 AM to 5 PM EPT. In no circumstance can

include all monetary consideration for the Demand Resource(s) offered. DR Suppliers must submit their best and final price with their Proposal.

Should Mon Power execute a DR Agreement with a Respondent, the contract price between Mon Power and the Respondent set forth in the DR Agreement will be the Acquisition Price submitted in its respective Proposal through this RFP process.

5.4.2 DEMAND RESOURCE PRODUCT DESCRIPTION

A Proposal is expected to include a description of the individual Demand Resource Customer, or the aggregation of the Program Participants of the CSP (including a list of curtailable Program Participants included in the Proposal with Electric Distribution Company (“EDC”) 20-digit account numbers and individual expected load drop values (kW)), equipment and technology that will be deployed, and for CSPs, plans for recruiting, engaging, and maintaining Program Participants.

Mon Power must have a high degree of confidence in the DR Supplier’s ability to manage Demand Resources to meet the RFP requirements. To address these risks, the Proposal should discuss the experience, qualifications, and financial strength of the DR Supplier and other key contributors. For CSPs, Proposals should describe well-defined roles and responsibilities of the DR Supplier and its Program Participants. The DR Supplier should describe successful protocols, if any, they have employed in the Mon Power APS Zone or other PJM zones for dispatching their Demand Resource(s).

For planned Demand Resource(s), the DR Supplier must fully describe specific plans detailing what equipment or technology it will deploy and/or utilize to support its operations. For CSPs, Proposals must describe DR Supplier’s processes for aggregating Program Participants, how the DR Supplier intends to recruit and engage Program Participants, and/or provide lists of Program Participants. The Proposal also must describe curtailment systems and

Curtailable Load be negative or can the Curtailable Load be in excess of the Curtailable Load cap agreed to and included in the DR Agreement.

procedures, budgeting for and structure of dispute resolution, and plans for communicating with Program Participants in connection with a curtailment period.

5.4.3 DEMAND RESOURCE TECHNICAL REQUIREMENTS

Under any DR Agreement executed as a result of this RFP, Mon Power shall acquire all rights, titles and interests in the Demand Resources including all the potential capacity and energy revenues associated with that Demand Resources. DR Suppliers must agree to cooperate with Mon Power in providing information needed to meet all PJM Demand Resource information requirements.

As described in more detail in the DR Agreement, the DR Supplier will assume all responsibilities and liabilities associated with providing the Demand Resources. Accordingly, Proposals offering Demand Resources must include the DR Supplier's acknowledgment and agreement that the DR Supplier is responsible for the following non-exhaustive list of activities and obligations:

- managing load reductions, including all notices, communications, controls, equipment, or other processes required;
- if the DR Supplier is a CSP, determining the number of Program Participants, if any, in its aggregation, the number of interruptible hours per customer, and the size of the Program Participants' load reduction;
- if the DR Supplier is a CSP, paying any Program Participants according to the CSP's agreement with those Program Participants. Such agreements shall be independent of Mon Power's DR Agreement with the CSP and must hold Mon Power harmless for any direct or indirect obligations or liability associated with the program; and
- paying penalties assessed pursuant to the DR Agreement due to the non-performance of the Demand Resource.

The DR Agreement shall reflect that it will be the DR Supplier's responsibility to reimburse Mon Power for any penalties, fees, or charges resulting from non-performance of its Demand Resource(s), and the DR Supplier's obligation to indemnify and hold Mon Power harmless against any claim, etc., arising from such non-performance. In the case of a DR Supplier who is a CSP, the DR Agreement will additionally set forth CSP's responsibility to reimburse Mon Power for any penalties, fees, or charges resulting from non-performance of any CSP Program Participant, and CSP's obligation to indemnify and hold Mon Power harmless against any claim, etc., arising from such CSP Program Participants' non-performance.

5.5 Evaluation Methodology

CRA will identify for recommendation to Mon Power the Demand Resource Proposal or portfolio of Proposals that contribute to Mon Power's capacity needs on a qualification plus cost basis. First, CRA will evaluate whether Proposals offering Demand Resources meet the requirements of this Section 5 and provide complete details such that CRA is confident in the ability of the DR Supplier to deliver the Demand Resource(s).

Second, for Proposals that meet the above requirements, CRA will evaluate the proposed Acquisition Price in Section 5.4.1. If the evaluation shows that the proposed Acquisition Price is less than one-hundred twenty-five percent (125%) of an independently developed capacity price forecast in RPM during the same period, Proposal may be recommended. If the evaluation shows that the proposed Acquisition Price is greater than one-hundred twenty-five percent (125%) of independently developed capacity price forecast in RPM during the same period, a Proposal will be eliminated from consideration. Proposals will be rank ordered and recommended to Mon Power based on the same metric.

5.6 Contract Execution

Mon Power does not, by this RFP, obligate itself to purchase any Demand Resources, or to execute a DR Agreement with any Respondent who submits an offer to sell Demand Resources to Mon Power and Mon Power may, in its discretion, reject any or all Proposals to sell Demand Resources to Mon Power, as such are described in this RFP.

Selection of a winning Proposal shall not be construed as a commitment by Mon Power to execute the DR Agreement. Execution of any DR Agreement is contingent upon Mon Power receiving all required regulatory approvals and completion of such due diligence as Mon Power in its sole discretion determines is reasonable to confirm the qualifications and performance of a given Demand Resource. During the period between when CRA makes its recommendation(s) to Mon Power, and the date of execution of the DR Agreement, Mon Power may conduct additional due diligence on the Proposal.

5.7 Demand Resource Proposal Fee

There is no Proposal fee for DR Proposals. DR Suppliers should refer to Section 10.1 for credit support requirements for the submission of a Proposal and for execution of the DR Agreement.

6 Proposal Submission

All Proposal documents must be submitted to the RFP Manager via email to MonPower-RFPManager@crai.com.

6.1 Format and Documentation

The primary application, including responses to all of the content requirements of Section 4, should be provided in Microsoft Word and Adobe Acrobat PDF file format.

An Information Form Addendum template is available on the RFP website in Microsoft Excel file format. This file allows for:

- standardized entry of economic, financial, and operating data necessary to perform the net present value analysis described in Section 4.2.3;
- standardized entry of proposal characteristics related to local economic impact, as necessary to perform the economic impact assessment described in 4.2.4.1; and
- cataloguing of other files associated with the Proposal, including file names and descriptions. Such files include permits, applications, approvals, and contractual arrangements.

All data related to economic, financial, and operating characteristics of a generation facility should be provided on a unit basis rather than for the plant as a whole (if a plant is made up of multiple units). Other data may be provided on an aggregated plant basis.

Respondents will maintain the order and format of the worksheets to facilitate CRA's review of the Proposal. The Information Form Addendum should be submitted in the same Microsoft Excel file format as provided in the template form.

Financial statements, annual reports, and other large documents may be referenced via a web site address. If possible, all such documents should be made available in Adobe Acrobat PDF file format.

6.2 Certification

Each proposal should include the following statement, signed by an authorized representative of Respondent and notarized:

"I, _____ am an authorized representative of _____ ("Respondent") and hereby certify and affirm that: (i) I am authorized to obligate the Respondent to the terms of its Proposal; (ii) the Respondent's Proposal shall remain binding until May 4, 2017 or, if the Proposal is selected, until the transaction receives all necessary regulatory approvals; (iii) the Respondent agrees to all of the terms, conditions and requirements of this RFP; and (iv) neither Respondent nor any

person or entity acting or purporting to act on its behalf or with Respondent has entered into any combination, conspiracy, agreement or other form of collusive arrangement with any person, corporation, partnership or other entity, which directly or indirectly has to any extent lessened competition between the Respondent and any other person or entity for this RFP.”

7 Reservation of Rights

Mon Power reserves the right, without qualification, to reject any or all Proposals and to waive any irregularity in submitted information. There is no assurance, express or implied, that any agreement will be executed pursuant to this RFP. Mon Power also reserves the right to solicit additional Proposals it deems necessary and the right to submit additional information requests to Respondents during the Proposal evaluation process.

This RFP shall not, by itself, give any right to any party for any claim against Mon Power. Furthermore, by submitting a Proposal, the Respondent shall be deemed to have acknowledged that Mon Power assumes no liability with respect to this RFP or any matters related thereto. Respondent acknowledges and agrees that Mon Power may terminate this RFP at any time and for its convenience without liability to Respondents, its advisors, consultants and agents. By submission of a Proposal, the Respondent, for itself as well as for its successors and assignees (if any), agrees that, as between Respondent and Mon Power, Respondent is to be solely responsible for all claims, demands, accounts, damages, costs, losses and expenses of whatsoever kind in law or equity, known or unknown, foreseen or unforeseeable, arising from or out of this RFP or its Proposal.

Mon Power reserves the right to modify this RFP for any reason and at any time. Such changes prior to bidding will be communicated to Respondents who submit a valid Intent to Bid Form.

8 Confidentiality of Information

All Proposals submitted in response to this RFP become the responsibility of CRA upon submittal. Respondents should clearly identify each page of information considered to be confidential or proprietary. Consistent with the NDA, CRA will take reasonable precautions and use reasonable efforts to maintain the confidentiality of all information so identified. Mon Power reserves the right to release any Proposals, or portions thereof, to agents, attorneys or consultants for purposes of proposal evaluation. Regardless of the confidentiality claimed, however, and regardless of the provisions of this RFP, all such information may be subject to review by, and disclosable by Mon Power, to the

appropriate state authority, or any other governmental authority or judicial body with jurisdiction relating to these matters, and may also be subject to discovery by other parties.

9 Regulatory Approvals

Pursuant to the terms of the Definitive Agreement(s), the Respondent will agree to use its reasonable best efforts, including, if necessary, providing data and testimony, to obtain any and all State, Federal, or other regulatory approvals required for the consummation of the transaction.

Please note in particular that approval by the PSC and FERC will be required before the transaction can be consummated between the selected Respondent and Mon Power.

10 Credit Qualification and Collateral

CRA will evaluate the credit quality and related collateral posting requirements for each Respondent submitting a Proposal(s) for new generation facilities or Demand Resources, in accordance with a uniform and consistent application of Mon Power risk management practices and standards, in two phases: (i) as part of CRA's evaluation of a Respondent's qualification to submit a Proposal; and (ii) if a Respondent is selected, during the negotiation of the Definitive Agreement. A Respondent shall have the corresponding obligation to post collateral ("Initial Collateral") as determined in accordance with this Section 10.1, as part of its Proposal, and the obligation (if selected) to post collateral ("DA Collateral") at the execution of the Definitive Agreement. In each case, the Initial Collateral and the DA Agreement Collateral must be in the form of eligible collateral ("Eligible Collateral"), which for purposes of this RFP shall be either: (a) a letter of credit; or (b) cash, in each case as reasonably determined by CRA (during the qualification stage) and by CRA/Mon Power (during the Definitive Agreement negotiation stage). Respondents can find instructions for posting collateral on the RFP website. CRA and Mon Power reserve the right to require a Respondent to post DA Agreement Collateral in an amount that exceeds the Initial Collateral amount.

10.1 Initial Collateral Requirements

In order to demonstrate its eligibility to submit a Proposal and to demonstrate credit quality, each Respondent shall be required to post Eligible Collateral along with the submission of the Proposal. The Eligible Collateral shall be determined on the basis of the type of Capacity Asset reflected in the Proposal and in the specified amounts below for each MW of Capacity Asset reflected below:

<u>Capacity Asset</u>	<u>Eligible Collateral Amount</u>
• New Generation Facility ¹³	\$53.68/kW of facility capacity
• Demand Resources	\$35.71/kW of demand reduction

The Initial Collateral shall remain in place until CRA and Mon Power have determined the amount of DA Collateral to be posted by the selected Respondent, and that DA Collateral is actually posted by the selected Respondent at the execution of the Definitive Agreement.

10.2 DA Collateral Requirements

During the negotiation of the Definitive Agreement, CRA and Mon Power will determine the required form of DA Collateral a Respondent must satisfy at the execution of the Definitive Agreement. The DA Collateral to be posted will be dependent in part on the type of Capacity Asset reflected in the selected Respondent's Proposal as there are various potential risks and liabilities (a non-exhaustive list of which appear below) that CRA and Mon Power must assess in determining the amount of DA Collateral:

¹³ Existing generation facilities that are currently in commercial operation are not required to post collateral. However, existing generation resources that are not currently in commercial operation and would require additional investments to bring back into commercial operation, such as mothballed generation facilities, are required to post Eligible Collateral, which shall be calculated using the Eligible Collateral requirements for new generation facilities.

Capacity Asset**Reason for Collateral Posting**

New Generation Facility

To secure the Respondent's development efforts to satisfy interim milestones, establish consequences for failing to meet interim milestones, delay damages, final deadline for achieving commercial operation and possible step-in rights.

Demand Resource

To protect Mon Power in the event that (a) the DR Supplier fails to provide the committed amount of demand reduction as required under the DR Agreement and Mon Power is required to acquire a replacement demand reduction resource at an incremental cost, or (b) the DR Supplier fails to reduce demand when called upon and Mon Power is assessed a penalty, charge, or fee by PJM for such nonperformance.

In the case of DA Collateral posted with respect to an existing generation facility or a new generation facility, the Respondent shall cease to be required to maintain the DA Collateral once the purchase of the generation facility is consummated. DA Collateral posted by a DR Supplier shall be maintained during the term of the DR Agreement.

11 Miscellaneous**11.1 Non-Exclusive Nature of RFP**

Mon Power may procure more or less than the amount of Capacity Assets solicited in this RFP from one or more Respondents. Respondents are advised that any Definitive Agreement executed by Mon Power and any selected Respondent may not be an exclusive contract for the provision of Capacity Assets. In submitting a Proposal(s), Respondent will be deemed to have acknowledged that Mon Power may contract with others for the same or similar deliverables or may otherwise obtain the same or similar deliverables by other means and on different terms.

11.2 Information Provided in RFP

The information provided in this RFP, or on Mon Power's RFP website, has been prepared to assist Respondents in evaluating this RFP. It does not purport to contain all the information that may be relevant to Respondent in satisfying its due diligence efforts. Mon Power makes no representation or warranty, express or implied, as to the accuracy, reliability or completeness of the information in this RFP, and shall not be liable for any representation, expressed or implied, in this RFP or any omissions from this RFP, or any information provided to a Respondent by any other source.

11.3 Proposal Costs

Mon Power shall not reimburse Respondent and Respondent is responsible for any cost incurred in the preparation or submission of a Proposal(s), in negotiations for an agreement, and/or any other activity contemplated by the Proposal(s) submitted in connection with this RFP. The information provided in this RFP, or on Mon Power's RFP website, has been prepared to assist Respondents in evaluating this RFP. It does not purport to contain all the information that may be relevant to Respondent in satisfying its due diligence efforts.

11.4 Indemnity

Supplementing Respondent's assumption of liability pursuant to this RFP, Respondent shall indemnify, hold harmless and defend Mon Power, and its officers, employees and agents, from any and all damages, liabilities, claims, expenses (including reasonable attorneys' fees), losses, judgments, proceedings or investigations incurred by, or asserted against, Mon Power or its officers, employees or agents, arising from, or are related to, this RFP, or the execution or performance of one or more Definitive Agreements.

11.5 Hold Harmless

Respondent shall hold Mon Power harmless from all damages and costs, including, but not limited, to legal costs in connection with all claims, expenses, losses, proceedings or investigations that arise as a result of this RFP or the award of a proposal pursuant to the RFP or the execution or performance of a Definitive Agreement.

11.6 Further Assurances

By submitting a Proposal, Respondent agrees, at its expense, to enter into additional agreements, and to provide additional information and documents, in either case as requested by CRA in order to facilitate: (a) the review of a

Proposal; (b) the execution of one or more Definitive Agreements; or (c) the procurement of regulatory approvals required for the effectiveness of one or more Definitive Agreements.

11.7 Licenses and Permits

Respondent shall obtain, at its cost and expense, all licenses and permits that may be required by any governmental body or agency necessary to conduct Respondent's business or to perform hereunder. Respondent's subcontractors, employees, agents and representatives of each in performance hereunder shall comply with all applicable governmental laws, ordinances, rules, regulations, orders and all other governmental requirements.

ATTACHMENT 4

DRAFT PROTECTIVE ORDER

**UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION**

Monongahela Power Company)	Docket No. EC17-____-000
and)	
Allegheny Energy Supply Company, LLC)	

PROTECTIVE ORDER
(Issued _____)

1. This Protective Order shall govern the use of all Privileged Materials produced by, or on behalf of, any Participant. Notwithstanding any order terminating this proceeding, this Protective Order shall remain in effect until specifically modified or terminated by the Presiding Administrative Law Judge (Presiding Judge) or the Chief Administrative Law Judge (Chief Judge) or the Federal Energy Regulatory Commission (Commission).

2. This Protective Order applies to the following two categories of materials: (A) A Participant may designate as privileged those materials which customarily are treated by that Participant as sensitive or proprietary, which are not available to the public, and which, if disclosed freely, would subject that Participant or its customers to risk of competitive disadvantage or other business injury; and (B) A Participant shall designate as privileged those materials which contain critical energy infrastructure information, as defined in 18 CFR § 388.113(c)(1) (Critical Energy Infrastructure Information).

3. Definitions — For purposes of this Order:

(a) The term “Participant” shall mean a Participant as defined in 18 CFR § 385.102(b).

(b) (1) The term “Privileged Materials” means (A) materials (including depositions) provided by a Participant in response to discovery requests and designated by such Participant as privileged; (B) any information contained in or obtained from such designated materials; (C) any other materials which are made subject to this Protective Order by the Presiding Judge or the Chief Judge, by the Commission, by any court or other body having appropriate authority, or by agreement of the Participants; (D) notes of Privileged Materials; and (E) copies of Privileged Materials. The Participant producing the Privileged Materials shall physically mark them on each page as “PRIVILEGED MATERIALS” or with words of similar import as long as the term “Privileged Materials” is included in that designation to indicate that they are Privileged Materials. If the Privileged Materials contain Critical Energy Infrastructure Information, the Participant producing such information shall additionally mark on each page containing

such information the words “Contains Critical Energy Infrastructure Information – Do Not Release.”

(2) The term “Notes of Privileged Materials” means memoranda, handwritten notes, or any other form of information (including electronic form) which copies or discloses materials described in Paragraph 3(b)(1). Notes of Privileged Materials are subject to the same restrictions provided in this order for Privileged Materials except as specifically provided in this order.

(3) Privileged Materials shall not include (A) any information or document that has been filed with and accepted into the public files of the Commission, or contained in the public files of any other federal or state agency, or any federal or state court, unless the information or document has been determined to be privileged by such agency or court, or (B) information that is public knowledge, or which becomes public knowledge, other than through disclosure in violation of this Protective Order, or (C) any information or document labeled as “Non-Internet Public” by a Participant, in accordance with Paragraph 30 of FERC Order No. 630, FERC Stat. & Reg. ¶ 31,140. Privileged Materials do include any information or document contained in the files of the Commission that has been designated as Critical Energy Infrastructure Information.

(c) Non-Disclosure Certificates

(1) The term “Non-Disclosure Certificate” shall mean the certificate annexed hereto by which Participants who have been granted access to Privileged Materials shall certify their understanding that such access to Privileged Materials is provided pursuant to the terms and restrictions of this Protective Order, and that such Participants have read the Protective Order and agree to be bound by it. All Non-Disclosure Certificates shall be served on all parties on the official service list maintained by the Secretary in this proceeding.

(2) The term “Non-Disclosure Certificate for Competitive Duty Personnel” means the certificate annexed hereto by which Competitive Duty Personnel shall certify their understanding of the terms of their access pursuant to the terms and restrictions of this Protective Order and that such representatives have read the terms and restrictions of this Protective Order applicable to such materials and agree to be bound by them. All Non-Disclosure Certificates for Competitive Duty Personnel shall be served on all parties on the official service list maintained by the Secretary in this proceeding.

(d) The term “Reviewing Representative” shall mean a person who has signed a Non-Disclosure Certificate and who is:

(1) Commission Trial Staff designated as such in this proceeding;

(2) an attorney who has made an appearance in this proceeding for a Participant;

(3) attorneys, paralegals, and other employees associated for purposes of this case with an attorney described in Subparagraph (2);

(4) an expert or an employee of an expert retained by a Participant for the purpose of advising, preparing for or testifying in this proceeding;

(5) a person designated as a Reviewing Representative by order of the Presiding Judge or the Chief Judge or the Commission; or

(6) employees or other representatives of Participants appearing in this proceeding with significant responsibility for this docket.

4. Privileged Materials shall be made available under the terms of this Protective Order only to Participants and only to their Reviewing Representatives as provided in Paragraphs 7-9.

5. Privileged Materials shall remain available to Participants until the later of the date that an order terminating this proceeding becomes no longer subject to judicial review, or the date that any other Commission proceeding relating to the Privileged Material is concluded and no longer subject to judicial review. If requested to do so in writing after that date, the Participants shall, within fifteen days of such request, return the Privileged Materials (excluding Notes of Privileged Materials) to the Participant that produced them, or shall destroy the materials, except that copies of filings, official transcripts and exhibits in this proceeding that contain Privileged Materials, and Notes of Privileged Material may be retained, if they are maintained in accordance with Paragraph 6, below. Within such time period each Participant, if requested to do so, shall also submit to the producing Participant an affidavit stating that, to the best of its knowledge, all Privileged Materials and all Notes of Privileged Materials have been returned or have been destroyed or will be maintained in accordance with Paragraph 6. To the extent Privileged Materials are not returned or destroyed, they shall remain subject to the Protective Order.

6. All Privileged Materials shall be maintained by the Participant in a secure place. Access to those materials shall be limited to those Reviewing Representatives specifically authorized pursuant to Paragraphs 8-9. The Secretary shall place any Privileged Materials filed with the Commission in a non-public file. By placing such documents in a non-public file, the Commission is not making a determination of any claim of privilege. The Commission retains the right to make determinations regarding any claim of privilege and the discretion to release information necessary to carry out its jurisdictional responsibilities. For documents submitted to Commission Trial Staff

(Staff), Staff shall follow the notification procedures of 18 CFR § 388.112 before making public any Privileged Materials.

7. Privileged Materials shall be treated as privileged by each Participant and by the Reviewing Representative in accordance with the certificate executed pursuant to Paragraph 9. Privileged Materials shall not be used except as necessary for the conduct of this proceeding, nor shall they be disclosed in any manner to any person except a Reviewing Representative who is engaged in the conduct of this proceeding and who needs to know the information in order to carry out that person's responsibilities in this proceeding. Reviewing Representatives may make copies of Privileged Materials, but such copies become Privileged Materials. Reviewing Representatives may make notes of Privileged Materials, which shall be treated as Notes of Privileged Materials if they disclose the contents of Privileged Materials.

8. (a) If a Reviewing Representative's scope of employment includes the marketing of energy, the direct supervision of any employee or employees whose duties include the marketing of energy, the provision of consulting services to any person whose duties include the marketing of energy, or the direct supervision of any employee or employees whose duties include the marketing of energy, such Reviewing Representative may not use information contained in any Privileged Materials obtained through this proceeding to give any Participant or any competitor of any Participant a commercial advantage.

(b) In the event that a Participant wishes to designate as a Reviewing Representative a person not described in Paragraph 3 (d) above, the Participant shall seek agreement from the Participant providing the Privileged Materials. If an agreement is reached that person shall be a Reviewing Representative pursuant to Paragraphs 3(d) above with respect to those materials. If no agreement is reached, the Participant shall submit the disputed designation to the Presiding Judge for resolution.

9. (a) A Reviewing Representative shall not be permitted to inspect, participate in discussions regarding, or otherwise be permitted access to Privileged Materials pursuant to this Protective Order unless that Reviewing Representative has first executed a Non-Disclosure Certificate or, in the case of Competitive Duty Personnel, a Non-Disclosure Certificate for Competitive Duty Personnel; provided, that if an attorney qualified as a Reviewing Representative has executed such a certificate, the paralegals, secretarial and clerical personnel under the attorney's instruction, supervision or control need not do so. A copy of each Non-Disclosure Certificate and Non-Disclosure Certificate for Competitive Duty Personnel shall be provided to counsel for the Participant asserting privilege prior to disclosure of any Privileged Material to that Reviewing Representative.

(b) Attorneys qualified as Reviewing Representatives are responsible for ensuring that persons under their supervision or control comply with this order.

10. Any Reviewing Representative may disclose Privileged Materials to any other Reviewing Representative as long as the disclosing Reviewing Representative and the receiving Reviewing Representative both have executed a Non-Disclosure Certificate. In the event that any Reviewing Representative to whom the Privileged Materials are disclosed ceases to be engaged in these proceedings, or is employed or retained for a position whose occupant is not qualified to be a Reviewing Representative under Paragraph 3(d), access to Privileged Materials by that person shall be terminated. Even if no longer engaged in this proceeding, every person who has executed a Non-Disclosure Certificate shall continue to be bound by the provisions of this Protective Order and the certification.

11. Subject to Paragraph 18, the Presiding Judge or the Chief Judge or the Commission shall resolve any disputes arising under this Protective Order. Prior to presenting any dispute under this Protective Order to the Presiding Judge or the Chief Judge or the Commission, the parties to the dispute shall use their best efforts to resolve it. Any Participant that contests the designation of materials as privileged shall notify the Participant that provided the privileged materials by specifying in writing the materials the designation of which is contested. This Protective Order shall automatically cease to apply to such materials five (5) business days after the notification is made unless the designator, within said 5-day period, files a motion with the Presiding Judge or the Chief Judge or the Commission, with supporting affidavits, demonstrating that the materials should continue to be privileged. In any challenge to the designation of materials as privileged, the burden of proof shall be on the Participant seeking protection. If the Presiding Judge or the Chief Judge or the Commission finds that the materials at issue are not entitled to privilege, the procedures of Paragraph 18 shall apply. The procedures described above shall not apply to privileged materials designated by a Participant as Critical Energy Infrastructure Information. Materials so designated shall remain privileged and subject to the provisions of this Protective Order, unless a Participant requests and obtains a determination from the Commission's Critical Energy Infrastructure Information Coordinator that such materials need not remain privileged.

12. All copies of all documents reflecting Privileged Materials, including the portion of the hearing testimony, exhibits, transcripts, briefs and other documents, which refer to Privileged Materials, shall be filed and served in sealed envelopes or other appropriate containers endorsed to the effect that they are sealed pursuant to this Protective Order. Such documents shall be marked "PRIVILEGED MATERIALS" and shall be filed under seal and served under seal upon the Presiding Judge and all Reviewing Representatives who are on the service list. Such documents containing Critical Energy Infrastructure Information shall be additionally marked "Contains Critical Energy Infrastructure Information – Do Not Release." For anything filed under seal, redacted versions or, where an entire document is privileged, a letter indicating such, will also be filed with the Commission and served on all Participants on the service list and the Presiding Judge.

Counsel for the producing Participant shall provide to all Participants who request the same, a list of Reviewing Representatives who are entitled to receive such material. Counsel shall take all reasonable precautions necessary to assure that Privileged Materials are not distributed to unauthorized persons.

13. If any Participant desires to include, utilize or refer to any Privileged Materials or information derived therefrom in testimony or exhibits during the hearing in these proceedings in such a manner that might require disclosure of such material to persons other than reviewing representatives, such Participant shall first notify both counsel for the disclosing Participant and the Presiding Judge of such desire, identifying with particularity each of the Privileged Materials. Thereafter, use of such Privileged Material will be governed by procedures determined by the Presiding Judge.

14. Nothing in this Protective Order shall be construed as precluding any Participant from objecting to the use of Privileged Materials on any legal grounds.

15. Nothing in this Protective Order shall preclude any Participant from requesting the Presiding Judge, the Chief Judge, the Commission, or any other body having appropriate authority, to find that this Protective Order should not apply to all or any materials previously designated as Privileged Materials pursuant to this Protective Order. The Presiding Judge or the Chief Judge or the Commission may alter or amend this Protective Order as circumstances warrant at any time during the course of this proceeding.

16. Each Participant governed by this Protective Order has the right to seek changes in it as appropriate from the Presiding Judge or the Chief Judge or the Commission.

17. All Privileged Materials filed with the Commission, the Presiding Judge, or any other judicial or administrative body, in support of, or as a part of, a motion, other pleading, brief, or other document, shall be filed and served in sealed envelopes or other appropriate containers bearing prominent markings indicating that the contents include Privileged Materials subject to this Protective Order. Such documents containing Critical Energy Infrastructure Information shall be additionally marked "Contains Critical Energy Infrastructure Information – Do Not Release."

18. If the Presiding Judge or the Chief Judge finds at any time in the course of this proceeding that all or part of the Privileged Materials need not be privileged, those materials shall, nevertheless, be subject to the privilege afforded by this Protective Order for three (3) business days from the date of issuance of the Presiding Judge's or the Chief Judge's determination, and if the Participant seeking privilege files an interlocutory appeal or requests that the issue be certified to the Commission, for an additional seven (7) business days. None of the Participants waives its rights to seek additional administrative or judicial remedies after the Presiding Judge's or the Chief Judge's decision respecting Privileged Materials or Reviewing Representatives, or the

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Commission's denial of any appeal thereof. The provisions of 18 CFR §§ 388.112 and 388.113 shall apply to any requests under the Freedom of Information Act (5 U.S.C. § 552) for Privileged Materials in the files of the Commission.

19. Nothing in this Protective Order shall be deemed to preclude any Participant from independently seeking through discovery in any other administrative or judicial proceeding information or materials produced in this proceeding under this Protective Order.

20. None of the Participants waives the right to pursue any other legal or equitable remedies that may be available in the event of actual or anticipated disclosure of Privileged Materials.

21. The contents of Privileged Materials or any other form of information that copies or discloses Privileged Materials shall not be disclosed to anyone other than in accordance with this Protective Order and shall be used only in connection with this (these) proceeding(s). Any violation of this Protective Order and of any Non-Disclosure Certificate executed hereunder shall constitute a violation of an order of the Commission.

Presiding Administrative Law Judge

**UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION**

Monongahela Power Company)	Docket No. EC17-____-000
and)	
Allegheny Energy Supply Company, LLC)	

NON-DISCLOSURE CERTIFICATE

I hereby certify my understanding that access to Privileged Materials is provided to me pursuant to the terms and restrictions of the Protective Order in this proceeding, that I have been given a copy of and have read the Protective Order, and that I agree to be bound by it. I understand that the contents of the Privileged Materials, any notes or other memoranda, or any other form of information that copies or discloses Privileged Materials shall not be disclosed to anyone other than in accordance with that Protective Order. I acknowledge that a violation of this certificate constitutes a violation of an order of the Federal Energy Regulatory Commission.

By Signature: _____

Print Name:

Title:

Employed By:

Representing:

Date:

**UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION**

Monongahela Power Company)	Docket No. EC17-____-000
and)	
Allegheny Energy Supply Company, LLC)	

NON-DISCLOSURE CERTIFICATE FOR COMPETITIVE DUTY PERSONNEL

I hereby certify my understanding that access to Privileged Materials in the above-captioned case is provided to me pursuant to the terms and restrictions of the Protective Order in this proceeding, that I have been given a copy of and have read the Protective Order, and that I agree to be bound by it. I understand that the contents of the Privileged Materials, any notes or other memoranda, or any other form of information that copies or discloses Privileged Materials shall not be disclosed to anyone other than in accordance with that Protective Order and shall be used only in connection with this proceeding. I acknowledge that my duties and responsibilities include “Competitive Duties” as described in the Protective Order and, as such, I understand that I shall neither have access to, nor disclose, the contents of the Privileged Materials that are marked “Contains Privileged Material Not Available to Competitive Duty Personnel,” any notes or other memoranda, or any other form of information that copies or discloses Privileged Materials that are marked as “Contains Privileged Material Not Available to Competitive Duty Personnel.” I acknowledge that a violation of this certificate constitutes a violation of an order of the Federal Energy Regulatory Commission.

By:

Title:

Representing:

Date:

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